

BOARD MEETING  
STATE OF CALIFORNIA  
SECRETARY OF STATE  
VOTING MODERNIZATION BOARD

SECRETARY OF STATE BUILDING  
1500 11TH STREET  
AUDITORIUM  
SACRAMENTO, CALIFORNIA

WEDNESDAY, JANUARY 18, 2006

10:36 A.M.

YVONNE K. FENNER, CSR, RPR  
CERTIFIED SHORTHAND REPORTER  
LICENSE NUMBER 10909

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Mr. John A. Pérez, Chairperson

Mr. Stephen Kaufman, Vice Chairperson (via teleconference)

Mr. Michael Bustamante (via teleconference)

Mr. Tal Finney

Mr. Carl Guardino (via teleconference)

STAFF

Mr. Michael Kanotz, Staff Counsel

Ms. Jana Lean

Ms. Katherine Montgomery

ALSO PRESENT

Mr. George Allen, Amador County

Ms. Joan Bechtel, Sutter County

Ms. Terry Hansen, Yuba County

Mr. Vernon McDonald, Tulare County

Ms. Sheree Noell, Sequoia Voting Systems

Ms. Hiley Wallis, Tulare County

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PROCEEDINGS

CHAIRPERSON PÉREZ: Good afternoon. Thank you for joining us. I'd like to call to order the meeting of the Voting Modernization Board for Wednesday, January 18th, 2006.

The first item before us is a declaration of quorum. I heard amazingly -- let's call the roll.

MS. MONTGOMERY: All right. John Pérez.

CHAIRPERSON PÉREZ: Here.

MS. MONTGOMERY: Stephen Kaufman.

VICE CHAIRPERSON KAUFMAN: Here.

MS. MONTGOMERY: Michael Bustamante.

BOARD MEMBER BUSTAMANTE: Here.

MS. MONTGOMERY: Tal Finney.

BOARD MEMBER FINNEY: Here.

MS. MONTGOMERY: Carl Guardino.

BOARD MEMBER GUARDINO: Here.

CHAIRPERSON PÉREZ: Okay. We have -- we have a hundred-percent attendance.

And Mr. Finney is playing with your microphone, gentlemen, so -- there we go.

Okay. Since the three of you are all on the line by phone, if you would -- as is my usual habit, I'll call upon you individually, but if you want to insert something in when you're not called upon, if you'd just

1 identify yourself by name again, just so the reporter can  
2 capture that.

3 The next item before us is item 3, public comment  
4 for items that are not specifically on our agenda. Do we  
5 have any cards for item 3?

6 MS. LEAN: No, sir.

7 CHAIRPERSON PÉREZ: Okay. Item 4, adoption of  
8 the November 16 and December 5th, 2006 minutes, an action  
9 item. At our last meeting we didn't have enough time to  
10 review the November action item and minutes, and we  
11 deferred it to today. So has everybody had a chance to  
12 review both the November and December?

13 And do I see -- hear a motion from Mr. Finney?

14 BOARD MEMBER FINNEY: Sure. I'll move to adopt  
15 the minutes.

16 BOARD MEMBER BUSTAMANTE: I'll second that. It's  
17 Michael.

18 CHAIRPERSON PÉREZ: Michael Bustamante seconds.

19 Any discussion?

20 Hearing none, all in favor, signify by saying

21 "aye."

22 MULTIPLE SPEAKERS: Aye.

23 CHAIRPERSON PÉREZ: And aye.

24 We've got a unanimous consent there.

25 Next before us is item 5, project documentation

1 package review and funding award approval. The first of  
2 four Counties to come before us is Amador County. And  
3 Jana, if you would walk us through Amador County, please.

4 MS. LEAN: Amador County submitted a project  
5 documentation plan. The staff recommends funding of a  
6 full allocation of \$335,363.98. They are purchasing the  
7 ES&S Model 100 precinct ballot counters, 40 units, and  
8 the ES&S AutoMARK voter assisted terminals for --

9 VICE CHAIRPERSON KAUFMAN: Actually, if we could  
10 get a little more volume on --

11 MS. LEAN: Okay. Stephen, can you hear me a  
12 little better now?

13 VICE CHAIRPERSON KAUFMAN: Barely.

14 CHAIRPERSON PÉREZ: Why don't we do this, Jana,  
15 let's get you to come up here and sit with us, if you  
16 would.

17 MS. LEAN: Okay. Can you hear me now?

18 VICE CHAIRPERSON KAUFMAN: Yes.

19 BOARD MEMBER BUSTAMANTE: Oh, yeah.

20 MS. LEAN: Okay. Good.

21 Okay. The Amador County project documentation  
22 package, I'll start again. Staff is recommending their  
23 full allocation of 335,363.98. They are purchasing the  
24 ES&S Model 100 precinct ballot counters, 40 units, and  
25 the ES&S AutoMARK voter assisted terminals, 40 units.

1           Also listed on your staff report, they are  
2 purchasing five iVotronic terminals, DREs, which are not  
3 certified at this time, and I will go into that at  
4 greater length in the report later on.

5           Amador County anticipates receiving their new  
6 voting equipment between mid December of 2005 through  
7 April of 2006, and the County plans to begin using this  
8 equipment for the June 6th, 2006 primary.

9           The voter verified paper audit trail requirement  
10 does not apply to this voting system as the system is a  
11 paper-based optical scan voting system.

12           Amador County's project documentation plan meets  
13 the requirements for completeness; however, I wanted to  
14 identify that the five iVotronic terminals, DREs, listed  
15 in the vendor contract are not currently certified for  
16 use in California. Amador County did not indicate in  
17 their project documentation plan that they planned to  
18 implement and use the iVotronic units as part of their  
19 voting system upgrade.

20           I just wanted to point out that Elections Code  
21 section 19201(b) prohibits any County from purchasing or  
22 contracting for a voting system, in whole or in part,  
23 unless it has received the approval for its use from the  
24 Secretary of State. As such, iVotronic terminals would  
25 not be allowed for reimbursement under Proposition 41 and

1 should not be approved as part of Amador County's project  
2 documentation plan.

3 The ES&S Model 100 optical scan units and the  
4 ES&S AutoMARK voter assisted terminals are certified for  
5 use in California. And as I said earlier, they do plan  
6 to implement the Model 100s and the AutoMARKs for the  
7 June 6, 2006 primary.

8 Amador County is conducting an extensive outreach  
9 program to introduce the new voting system to Amador  
10 voters. The County plans to hold demonstrations at  
11 elderly centers, community events and meetings, provide  
12 demonstrations to individuals, and involve the local  
13 media to promote their new voting system. And the County  
14 also is considering offering early voting using the  
15 Model 100s and the AutoMARKs at elderly centers and in  
16 their office.

17 Amador County believes that the deployment of the  
18 Model 100 optical scan units combined with the AutoMARK  
19 voter assisted terminals will bring the County into  
20 compliance with the Help America Vote Act, HAVA, and  
21 state accessibility requirements.

22 Amador County will only receive VMB payments once  
23 they have submitted detailed invoices for their certified  
24 voting equipment. Please note that the staff proposed  
25 funding award is based upon allowable reimbursement under



1 Prop 41 for voting system equipment hardware and software  
2 only. The election support services, installation, and  
3 performance bond line items listed in Amador County's  
4 contract with ES&S would not be covered as reimbursable  
5 claims under Proposition 41.

6 It is staff's recommendation that Amador County's  
7 project documentation plan be approved and a final award  
8 letter be issued in the amount of 335,363.98 to purchase  
9 the 40 ES&S Model 100 precinct ballot counters and the 40  
10 ES&S AutoMARK voter assisted terminals and associated  
11 software.

12 Any questions?

13 CHAIRPERSON PÉREZ: Mr. Kaufman, any questions  
14 from you?

15 VICE CHAIRPERSON KAUFMAN: Looks like we're kind  
16 of going down a little different path here than we had  
17 done before, and I guess I'm just trying to understand  
18 the certification status. I guess I just want a little  
19 more clarification on the DRE units and the certification  
20 issue. Because I guess unlike these other ones that  
21 we're going to see where the -- there's conditional  
22 certification on the software, these DREs specifically  
23 are not certified for use; correct?

24 MS. LEAN: That is correct.

25 VICE CHAIRPERSON KAUFMAN: And so unless someone

1 is applying -- unless -- is there an application pending  
2 for this particular system?

3 MS. LEAN: According to the information that I  
4 have from our voting system -- the new voting system  
5 office, they do plan to submit an application for  
6 certification for the iVotronic units.

7 BOARD MEMBER FINNEY: That's separate than what's  
8 going on right now.

9 CHAIRPERSON PÉREZ: Right. It's separate than  
10 what's going on right now. The staff recommendation  
11 specifically carved out those DREs, and so none of the  
12 recommendation amount would cover any portion of the  
13 purchase of the five DREs.

14 BOARD MEMBER BUSTAMANTE: Right. So there's no  
15 reimbursement of those at all; right?

16 MS. LEAN: Correct.

17 BOARD MEMBER BUSTAMANTE: Okay.

18 CHAIRPERSON PÉREZ: Thank you, Mr. Bustamante.  
19 Mr. Guardino?

20 BOARD MEMBER GUARDINO: No, I'm fine.

21 CHAIRPERSON PÉREZ: Mr. Finney?

22 BOARD MEMBER FINNEY: I'd actually -- do we have  
23 anybody here from Amador County?

24 CHAIRPERSON PÉREZ: If you'd come forward and...

25 MR. ALLEN: My name is George Allen. I'm the

1 deputy registrar of voters.

2 CHAIRPERSON PÉREZ: Thank you for joining us  
3 today.

4 Obviously, the staff recommendation is for  
5 awarding the full amount that we had previously allocated  
6 to the County to cover the precinct ballot counters and  
7 the AutoMARK terminals. We do have a little bit of an  
8 interest, a curiosity, even though there's not VMB money  
9 associated with the five DREs, and I was wondering  
10 whether you might be able to help us understand how you  
11 were planning to incorporate those five DREs with the  
12 rest of the system that you've outlined here.

13 MR. ALLEN: Let me back up a little bit. Where  
14 we acquired the DREs is when we formed a committee to  
15 help us evaluate voting systems. And part of the  
16 committee was disabled individuals and a couple members  
17 were from the grand jury, one of whom knew a little bit  
18 about computers. And he felt that in order for us to  
19 keep in touch with the system and what was going on and  
20 everything, that we should at least purchase the DREs, so  
21 that's where the idea came from.

22 We would obviously not be able to buy them until  
23 they're certified by the State. I believe we can't even  
24 take delivery of them until they're certified by the  
25 State.

1           What we liked about them is they're a little bit  
2 different than the AutoMARK. You know, it's a little bit  
3 different concept, and it's something we felt, number  
4 one, we should be used to, and number two, it would  
5 assist us in our early voting. So that's...

6           CHAIRPERSON PÉREZ: Okay. Thank you.

7           I'm just going to run down the line to see if  
8 anybody has any questions.

9           Mr. Kaufman?

10          VICE CHAIRPERSON KAUFMAN: No.

11          CHAIRPERSON PÉREZ: Mr. Bustamante?

12          BOARD MEMBER BUSTAMANTE: Just one. Do they plan  
13 on coming back to us for a reimbursement of those DREs?

14          CHAIRPERSON PÉREZ: Well, actually, they would  
15 have -- they would have maximized the first round  
16 allocation, so they couldn't come back to us if, in fact,  
17 they fully expend the amount of money that we allocate  
18 today.

19          BOARD MEMBER BUSTAMANTE: Got it.

20          CHAIRPERSON PÉREZ: Mr. Guardino?

21          BOARD MEMBER GUARDINO: I don't have any  
22 questions, but once again, I don't know if my colleagues  
23 are having a hard time hearing, but it's really difficult  
24 to hear the speakers.

25          CHAIRPERSON PÉREZ: Okay.

1 Mr. Finney?

2 BOARD MEMBER FINNEY: No questions.

3 CHAIRPERSON PÉREZ: Okay. Is there a motion?

4 BOARD MEMBER FINNEY: I'll move approval.

5 VICE CHAIRPERSON KAUFMAN: And I'll second.

6 CHAIRPERSON PÉREZ: Mr. Finney moves, Mr. Kaufman  
7 seconds, approval of the staff recommendation and issuing  
8 a funding award letter in the amount of \$335,363.98.

9 On the question --

10 BOARD MEMBER FINNEY: Technically it's 99 cents,  
11 Mr. Chair.

12 CHAIRPERSON PÉREZ: Ninety-nine cents?

13 BOARD MEMBER FINNEY: Right. We're not going to  
14 rip them off that extra penny.

15 MR. ALLEN: We appreciate that.

16 CHAIRPERSON PÉREZ: Mr. Finney, I appreciate  
17 that. I guess your years of service in the Controller's  
18 Office --

19 BOARD MEMBER FINNEY: Absolutely.

20 CHAIRPERSON PÉREZ: -- have finally proven  
21 useful. Every penny counts.

22 On the question, if you'd call the roll, please.

23 MS. MONTGOMERY: John Pérez?

24 CHAIRPERSON PEREZ: Aye.

25 MS. MONTGOMERY: Stephen Kaufman?

1 VICE CHAIRPERSON KAUFMAN: Aye.

2 MS. MONTGOMERY: Michael Bustamante?

3 BOARD MEMBER BUSTAMANTE: Aye.

4 CHAIRPERSON PÉREZ: Tal Finney?

5 BOARD MEMBER FINNEY: Aye.

6 MS. MONTGOMERY: Carl Guardino?

7 BOARD MEMBER GUARDINO: Aye.

8 CHAIRPERSON PÉREZ: Very good, thank you.

9 MR. ALLEN: Thank you.

10 CHAIRPERSON PÉREZ: The next item before us is  
11 Sutter County, a slightly different situation.

12 And Jana, if you'd walk us through Sutter County.

13 MS. LEAN: Sutter County -- Sutter County has  
14 submitted a project documentation, and the staff is  
15 recommending the funding approval of their full  
16 allocation of \$497,078.20. They are purchasing the  
17 Sequoia voting system AVC Edge II DREs, 225 units, and  
18 the VeriVote DRE printers, 295 units. For their absentee  
19 system, they're purchasing the Optech 400-C ballot  
20 counters, one unit, and the Optech Insight precinct  
21 ballot counters, two units.

22 Sutter County's plan estimates delivery of their  
23 voting system in April of 2006. The actual delivery  
24 terms of their vendor contract are more ambiguous. The  
25 contract language states that the delivery and setup date

1 is estimated to be completed within four months from the  
2 date of the contract.

3 The County plans to begin using this equipment in  
4 the June 6, 2006 primary election.

5 The voter verified paper audit trail is fulfilled  
6 by this new voting system as the VeriVote printer is a  
7 VVPAT component.

8 Sutter County's project documentation plan meets  
9 the minimum requirements for completeness, and the staff  
10 also recommends requesting that an additional acquisition  
11 schedule and project time line be provided once the  
12 County and the vendors have established actual delivery  
13 dates.

14 I do want to let the Board members know that in  
15 their packets today I've provided a schedule that Sutter  
16 County has submitted to the members. I will e-mail it to  
17 the other members. Sorry about that. I anticipated more  
18 attendance here.

19 The Sequoia AVC Edge II DRE, the VeriVote  
20 printers, the Optech Insight units, and the Optech 400-C  
21 units are certified for use in California. The software  
22 used to run the AVC Edge units currently has a  
23 conditional certification for its use as the software  
24 cannot be used in a primary election. This condition is  
25 expected to be resolved prior to the June 6th, 2006

1 primary. However, no application has yet been received  
2 by the Secretary of State's Office for the condition of  
3 the updated system, and unless such an application is  
4 brought forward by the vendor before the end of January,  
5 it appears unlikely that the Sequoia AVC Edge DRE units  
6 with the VeriVote printer would be able to be used during  
7 the June 6, 2006 primary.

8 Sutter County will be converting from the  
9 Mark-A-Vote optical scan voting system. Sutter County  
10 will use the Optech 400-C optical scan as their absentee  
11 and plans to use Optech Insight optical scan machines as  
12 backup to the 400-C. The County will be implementing the  
13 AVC Edge DRE units as their precinct-based system in all  
14 of their polling locations during the June 6, 2006  
15 primary.

16 Sutter County believes that the deployment of the  
17 DRE units in all of the polling places will bring the  
18 County into full compliance with the requirements of the  
19 Help America Vote Act as the DRE provides access to those  
20 voters with disabilities and it also satisfies  
21 second-chance voting requirements by not allowing  
22 overvotes and identifying undervotes to each voter.

23 The County is aware that the change to the new  
24 voting system will require an outreach, voter outreach  
25 and education program and will necessitate significant



1 changes in staff and poll worker training. Sutter County  
2 plans to contract with an outside consultant to assist in  
3 the development and implementation of the project plan to  
4 fully implement the new system.

5 Sutter County will only receive VMB payments once  
6 they have submitted invoices for the purchase of the  
7 voting system.

8 Please note that the staff-proposed funding award  
9 is based upon allowable reimbursement under  
10 Proposition 41 for voting equipment hardware and software  
11 only. The installation, training, and outreach costs  
12 listed in Sutter County's plan would not be covered as a  
13 reimbursable claim under Proposition 41.

14 And as I stated earlier, the staff is  
15 recommending requesting additional acquisition schedule  
16 and project time line. If the Board chooses to accept  
17 what they have submitted -- I'm sorry the three of you do  
18 not have that in front of you, but I'll let the other two  
19 members discuss that. If they decide that that's fine,  
20 then this condition can be taken off. But we do request  
21 that once the County and the vendors have established the  
22 actual deadline dates, that they submit that as part of  
23 their package.

24 It is our recommendation at that the staff --  
25 sorry, that Sutter County's project documentation plan be

1 approved and a funding award letter be issued in the  
2 amount of \$497,078.20.

3 Any questions?

4 CHAIRPERSON PÉREZ: Let me just interject here.  
5 I anticipate that some of you on the call, as I do, have  
6 questions about the status of Sequoia's AVC Edge II,  
7 because I think this has now come before us in probably  
8 each of the last six meetings. And it's been kind of a  
9 rolling deadline. So what I want to do is divide this  
10 item up for a second.

11 Do people have questions on anything unrelated to  
12 the certification question in Jana's report first? If we  
13 can deal with those issues, then we can get to the  
14 question of the status of the Edge.

15 So any other kinds of questions, Mr. Kaufman?

16 VICE CHAIRPERSON KAUFMAN: No. And I'm assuming  
17 that the -- I'm assuming that the delivery date issues on  
18 this all kind of relate to the same issue.

19 CHAIRPERSON PÉREZ: Yeah.

20 Mr. Bustamante?

21 BOARD MEMBER BUSTAMANTE: No.

22 CHAIRPERSON PÉREZ: Mr. Guardino?

23 BOARD MEMBER GUARDINO: No.

24 CHAIRPERSON PÉREZ: Mr. Finney?

25 BOARD MEMBER FINNEY: I was just going to point

1 out that the Sutter implementation plan provided to us by  
2 the staff -- which you guys will probably get via, what,  
3 mail or e-mail or something -- is actually pretty  
4 thorough. It lays out very specifically over the course  
5 of the next six months how they are going to proceed with  
6 implementation.

7 CHAIRPERSON PÉREZ: It's very thorough, and it's  
8 also very tight.

9 BOARD MEMBER FINNEY: Yes.

10 CHAIRPERSON PÉREZ: What I want to do because we  
11 have some logistical problems here, if you speak at the  
12 podium, our three Board members who are on the phone  
13 can't hear you, so if I could have you come forward up to  
14 the main table here and identify yourself. And then  
15 we'll kind of play a little bit of musical chairs.

16 MS. NOELL: Sheree Noell with Sequoia Voting  
17 Systems.

18 While I'm not here to speak on behalf of  
19 certification, I did want to point out that I received a  
20 copy of an e-mail last night where Sequoia did submit for  
21 certification to Mr. McDannold.

22 CHAIRPERSON PÉREZ: Okay. Very good. Let's have  
23 you just standby, and I want to ask a representative of  
24 Sutter to come forward.

25 All the way up here, because we're having some

1 technical issues.

2 Michael, can you actually get us another chair  
3 maybe so --

4 BOARD MEMBER FINNEY: And then we're going to  
5 take a picture at some point when everybody is up here.

6 CHAIRPERSON PÉREZ: Right.

7 (Laughter.)

8 CHAIRPERSON PÉREZ: And if you'd just kind of  
9 speak generally in the direction of this as well.

10 MS. BECHTEL: Oh, next to that one.

11 CHAIRPERSON PÉREZ: That way they can pick you up  
12 on the phone.

13 MS. BECHTEL: Okay.

14 CHAIRPERSON PÉREZ: Okay. If you would identify  
15 yourself for the court reporter.

16 MS. BECHTEL: I'm Joan Bechtel, Sutter County  
17 clerk of court and registrar of voters.

18 BOARD MEMBER BUSTAMANTE: And I can hear her  
19 perfectly. Thank you, Mr. Chairman.

20 CHAIRPERSON PÉREZ: No problem. Thank you.

21 We have -- and I don't mean to presuppose  
22 everybody's line of questioning, but I think that over  
23 the last several meetings we've expressed a real concern  
24 about this conditionally-certified system, especially  
25 since the condition is about its first application, which

1 is the primary election in June of 2006. And as I look  
2 through your -- the staff report with respect to this,  
3 you were first intending to use this new system in the  
4 June 2006 primary. And my concern is whether -- what  
5 you'll do if that -- if that condition doesn't get  
6 replaced, first of all, and then, second of all, where  
7 you think you are with respect to that condition.

8 MS. BECHTEL: That's a serious concern of ours.  
9 And what we thought we would do is probably implement  
10 the -- what we were going to use as the absentee ballot  
11 system, the optical system, and we would go ahead and  
12 implement that for the June primary election, which is  
13 our fallback position. This is not what we want to do.  
14 And then hopefully that would give time for the  
15 certification so that we would have been -- have  
16 implemented that first step as implementing the optical  
17 scan system, and then we would implement the DREs in the  
18 November election.

19 That's the only option we -- actually at this  
20 moment we see open to us if there should not be  
21 certification. And I just have to express to you my  
22 frustration in that when we went out and made our  
23 selection, Sequoia was listed as certified with a  
24 condition, which I represented to my members of my  
25 County, members of my board of supervisors. And then all

1 of a sudden -- it seems to me all of a sudden -- I'm  
2 seeing it's not just a condition, but that the Sequoia  
3 system has not been certified. And even in this report  
4 it says that the system is certified. Obviously we're  
5 not going to be able to implement a system that is not  
6 certified, but at this point we have serious concerns  
7 because of our time deadlines, and we see as the option  
8 open to us -- it will not make us HAVA compliant, but we  
9 could at least show that we are taking steps to implement  
10 a system and to become HAVA compliant.

11 The Mark-A-Vote system that I'm currently on is  
12 not going to -- is not making any new developments to  
13 meet HAVA requirements, so I'm going to have to go to  
14 another system. As a matter of fact, I can't even buy  
15 new voter readers, card readers, for the election. I  
16 bought two used ones, actually, from Riverside County.  
17 And in the last election I had -- I have four of them  
18 now -- two did not work, and I was down to two. So I  
19 have to go to another system, and this seems like the  
20 most logical step for me to do --

21 CHAIRPERSON PÉREZ: Okay.

22 MS. BECHTEL: -- at this point.

23 CHAIRPERSON PÉREZ: So your fallback position is  
24 if the certification doesn't have its condition removed  
25 for the June primary, that you'd go to -- to basically

1 the optical scan system --

2 MS. BECHTEL: We'd implement the optical scan  
3 system.

4 CHAIRPERSON PÉREZ: -- at the polling location in  
5 addition to it at the -- the absentee system.

6 MS. BECHTEL: And using the absentee system.

7 CHAIRPERSON PÉREZ: What I want to do is now go  
8 across each of the Board members that are on by phone and  
9 ask them if they have any questions.

10 So Mr. Kaufman?

11 VICE CHAIRPERSON KAUFMAN: I don't have any  
12 additional questions.

13 CHAIRPERSON PÉREZ: Mr. Bustamante? And when I  
14 say questions, I use "questions" in the way that we  
15 traditionally use them here. Comments are fine, too.

16 VICE CHAIRPERSON KAUFMAN: Statements.

17 BOARD MEMBER BUSTAMANTE: No, I don't have  
18 anything else.

19 CHAIRPERSON PÉREZ: Mr. Guardino?

20 BOARD MEMBER GUARDINO: No, not at this time.

21 CHAIRPERSON PÉREZ: Mr. Finney?

22 BOARD MEMBER FINNEY: No questions at this time.

23 CHAIRPERSON PÉREZ: Okay. I've got a couple of  
24 questions for Sequoia. If you would, just stay with us  
25 up here just in case we ask you to come back.

1           This is a divided process. We're not the board  
2 that grants certification. We're the board that has to  
3 review the information and approve funding based on what  
4 is or what is not certified. And we have serious  
5 limitations put on us as they're structured in  
6 Proposition 41.

7           But quite frankly, I for one, am incredibly  
8 frustrated that we have been here for at least six  
9 meetings, in many cases funding this system, having  
10 Counties go forward basically allocating our limited  
11 resources with an expectation that this issue would have  
12 been resolved, and we kept on having rolling deadlines of  
13 when to anticipate -- when to anticipate you folks  
14 applying for and the State being able to review your new  
15 product to see if it meets the California primary  
16 requirements.

17           What can you say to us to give us any confidence  
18 that we're actually going to be able to resolve this in a  
19 way that will allow for this system for the three  
20 Counties that are before us today to be able to be used  
21 in the June primary? Because quite frankly, if it can't  
22 be used in the June primary, then I see no urgency  
23 whatsoever for us to fund these or to allocate money  
24 today.

25           MS. NOELL: Okay. First let me say that I'm a



1 salesperson. I'm not responsible for the certification  
2 process. While I empathize with your situation with the  
3 certification process, I also experience that same  
4 situation.

5 Sequoia has successfully implemented primaries in  
6 California before. The -- the change is the way the  
7 Secretary now requires the reports to read. So the only  
8 change that we are making is for the decline to state  
9 report. So Sequoia can successfully implement a primary,  
10 just as we have done in the past. The only change to the  
11 certification is the way we report the decline to state.

12 CHAIRPERSON PÉREZ: Michael, is that a  
13 requirement of law, or is that a regulation, or is that  
14 just a change in interpretation by the Secretary?

15 MR. KANOTZ: You know, I don't have the technical  
16 expertise to really go into that, but what I can speak to  
17 is that although this system is certified, it's not  
18 certified -- it's certified with the condition that it  
19 cannot be used in a primary. So in its current form, it  
20 could not be used in the June primary. It could, for  
21 example, be used in the November general election. But  
22 really until the system is certified -- is recertified  
23 for use in a primary election, it couldn't be used in  
24 June.

25 CHAIRPERSON PÉREZ: Were those of you on the

1 phone able to get the main points of his response?  
2 Basically that the system is certified but it can't --  
3 it's not certified to be used in the June primary. It is  
4 certified to be used in a November general election.

5 BOARD MEMBER FINNEY: Technically the hardware is  
6 certified. The software is not certified in the June  
7 primary.

8 CHAIRPERSON PÉREZ: Correct.

9 You were going to add?

10 MS. NOELL: I was going to that, again, we did  
11 submit -- I saw an e-mail last night from a member of our  
12 certification team to Bruce McDannold, and we did submit  
13 the application last night to the California Secretary of  
14 State's Office, so -- while this report was generated  
15 yesterday. After the fact, that report was submitted.

16 MS. LEAN: Bruce -- this is Jana.

17 Bruce is unavailable at this time, so I can't  
18 confirm that he received everything that they need. I  
19 know that they have to have a full application in order  
20 for them to set up testing schedules. So I can't confirm  
21 any of that at this point.

22 CHAIRPERSON PÉREZ: What's our expectation on  
23 when Bruce will be available to -- is he expected in this  
24 morning? Is he --

25 MS. LEAN: He's at the meeting this morning --

1 CHAIRPERSON PÉREZ: Oh.

2 MS. LEAN: -- in the legislature. They're  
3 actually holding a meeting on voting systems in  
4 California. And he might have to testify at the  
5 legislature this morning, so he was unable to make  
6 today's meeting.

7 CHAIRPERSON PÉREZ: Okay. Any more questions for  
8 either the representative from Sequoia or Sutter County,  
9 Mr. Kaufman?

10 VICE CHAIRPERSON KAUFMAN: No.

11 CHAIRPERSON PÉREZ: Mr. Bustamante?  
12 Mr. Guardino?

13 BOARD MEMBER GUARDINO: No.

14 CHAIRPERSON PÉREZ: Mr. Finney?

15 BOARD MEMBER FINNEY: So if we approve the staff  
16 recommendation today, we're voting consistent with what  
17 we've done over -- consistently with what we've done over  
18 the past six meetings or so?

19 CHAIRPERSON PÉREZ: Yes, but. Much -- much like  
20 this is a certified system with a condition, my response  
21 is somewhat conditional as well. Yes, the action would  
22 technically be consistent because we've approved  
23 allocations in the past for acquiring this technology.  
24 The difference is this is the first time that the staff  
25 report raised specific issues about the ability for the

1 system to, in fact, be implemented in time for the June  
2 primary. On all previous items regarding this technology  
3 that have come before us -- and I ask staff to correct me  
4 where I'm wrong -- my understanding is that the -- the --  
5 the usability in a primary was at issue, but there was  
6 never a flag to the fact that absent action by a date  
7 specific it didn't look like it would be able to be  
8 implemented.

9 We're now at a point where the staff report  
10 raises serious questions about the ability to move  
11 forward if -- if Sequoia doesn't apply by the end of this  
12 month, which is, you know, the next 12 days. We're  
13 hearing from Sequoia that they applied last night via  
14 e-mail. So I guess the real question is was that -- was  
15 it sufficiently responsive to the needs of the Secretary  
16 of State's Office in the package that they put together.  
17 And if not, then I think there is a pretty substantive  
18 difference between what's before us and what's been  
19 before us in the past.

20 BOARD MEMBER FINNEY: And in the absence of  
21 approval, we'd be approving a system that could be used  
22 legally in the general election.

23 CHAIRPERSON PÉREZ: Correct.

24 BOARD MEMBER FINNEY: And I'd like to ask Sutter,  
25 what do you do in the case where you can only use it in

1 the general, you can't use it in the primary?

2 CHAIRPERSON PÉREZ: That was the answer you gave  
3 us before by using the optical.

4 BOARD MEMBER FINNEY: The optical.

5 CHAIRPERSON PÉREZ: Do you want to add more to  
6 that? If we can get you to -- we apologize.  
7 Technical --

8 MS. BECHTEL: I have to tell you I sincerely hope  
9 that you will approve this because I have constantly  
10 alluded to both my board of supervisors and to the  
11 public -- and there's been great discussion about this --  
12 is that the Sequoia system was certified but had two  
13 conditions on it. And any -- any indication or movement  
14 by your Board that this system is not certifiable, you  
15 know, really puts me in a very, very awkward position,  
16 and then I really don't know what I would do for the June  
17 primary election. I told you what my fallback position  
18 is in the event that this should not be used. And  
19 frankly, we're very anxious to meet all the requirements.  
20 I mean, we've stuck ourselves out on a limb knowing  
21 that -- in order that we can do that.

22 CHAIRPERSON PÉREZ: Let me ask you this question  
23 because one of the issues that's at issue is whether or  
24 not Sequoia has provided the Secretary of State's Office  
25 with the required information to evaluate its usability

1 in the June primary, what would be the harm done if  
2 instead of voting up or down on this item today, if we  
3 put it off to our February meeting, which still allows  
4 you to move forward and would still, if everything is in  
5 place, allow you to meet your June 6th requirement, is my  
6 understanding? What would be the harm done if we put it  
7 off to February?

8 BOARD MEMBER FINNEY: If I could clarify real  
9 quick, the Chairman's -- for the other members -- the  
10 Chairman's alluding to the implementation plan, which has  
11 the next step taking place on March 15th of '06, which is  
12 the warehouse modifications completed. But I just want  
13 to quickly add it is a very aggressive and tight schedule  
14 from that point forward.

15 MS. BECHTEL: It is.

16 BOARD MEMBER FINNEY: Yeah. So, sorry.

17 MS. BECHTEL: It is. I'll tell you honestly, I  
18 think, just personally, I would be in a place in my own  
19 community -- because I have relied on the fact that  
20 Sequoia is certified with a condition. And I have been  
21 challenged on that because when they now go to the  
22 Secretary of State's website and it lists who is  
23 certified, Sequoia is shown as not being certified, and  
24 people are saying that I misrepresented, and I did not.

25 CHAIRPERSON PÉREZ: No, you absolutely --

1 MS. BECHTEL: I represented --

2 CHAIRPERSON PÉREZ: -- represented what was --  
3 what's always been represented to us and what's always  
4 been represented publicly, that is absolutely a certified  
5 system. The only questions is -- is the condition with  
6 respect to its use in a primary election.

7 MS. BECHTEL: And if you would, you know, delay  
8 this, what I would go back and be facing is people  
9 saying, "See? We told you so." And I want to do what's  
10 right here, but also if you don't, then I can't move  
11 forward on the primary election.

12 CHAIRPERSON PÉREZ: Let ask you a different  
13 approach. With at least two other Counties we -- we  
14 issued funding conditioned upon meeting certain  
15 deadlines. And had those deadlines not been met, our  
16 approval would have sunsetted. How would you view  
17 something like that, which allowed us to take action  
18 today but allowed us to have our approval sunset if  
19 Sequoia, in fact, didn't meet the end-of-January deadline  
20 that's alluded to here in terms of providing the  
21 Secretary of State with all the information necessary?  
22 That wouldn't -- that wouldn't preclude you from coming  
23 back to us at a future date once they did supply the  
24 information, but it would -- it would allow our approval  
25 to be sunsetted.

1           BOARD MEMBER FINNEY: Yeah, approval with  
2 conditions subsequent.

3           CHAIRPERSON PÉREZ: Correct.

4           MS. BECHTEL: Well, let me ask you this: If I do  
5 not have your approval to move forward for funding with  
6 my board -- and my understanding and certainly my hope is  
7 that by the November election -- we're in a very short  
8 time frame --

9           CHAIRPERSON PÉREZ: Absolutely.

10          MS. BECHTEL: -- that is true. As a matter of  
11 fact, we have just as -- my board did approve last night  
12 signing a contract with Forefront to help us implement  
13 this, because we're a small county. We realize that  
14 there's a short time schedule.

15          I guess I'm saying to you I've done everything I  
16 believe on my part in good faith to make sure in  
17 representing to my County that we would get this funding  
18 and that -- and if you would delay it or sunset it, then  
19 I'm not sure how I can go forward to even purchase  
20 something for the November election. I mean, it's just  
21 sort of back to --

22          BOARD MEMBER FINNEY: How about this,  
23 Mr. Chairman: How about if we approve this with a  
24 condition that the County not use the DRE system for the  
25 primary if its -- if the system is not approved in time



1 for the primary, that you do rely on the optical for the  
2 primary, but then it's approved for the general, which  
3 it's perfectly, you know, approved -- I mean it's been  
4 certified for.

5 CHAIRPERSON PÉREZ: But that's consistent with  
6 what the County said from the outset, regardless of  
7 whether or not we created any caveats, any conditions,  
8 any modifications.

9 BOARD MEMBER FINNEY: Yeah, that's what I was  
10 suggesting.

11 CHAIRPERSON PÉREZ: So it's only committing to  
12 writing what the County had already offered to do as what  
13 they thought would be the most prudent course of action.

14 BOARD MEMBER FINNEY: Committing to writing in  
15 order to obtain the -- acquire the money from us.

16 CHAIRPERSON PÉREZ: I'm not positively  
17 predisposed to that, but I'd like to hear from the  
18 others.

19 Here's -- here's quite frankly my concern because  
20 I absolutely empathize with where you're coming from,  
21 because I think that you submitted a very thorough plan  
22 and it shows the diligence and the work that you and your  
23 staff went through in getting to this point today. So my  
24 concerns are not in any way a reflection on the efforts  
25 of your County. My concerns are a reflection and a

1 concern about where we are technologically and the fact  
2 that, quite frankly, if Sequoia doesn't move forward in  
3 this time line, there may be other systems that are  
4 there, and I guess it speaks to my frustration about how  
5 long it's taken for us to close this last gap.

6 So if I could get each of your senses of what we  
7 should do here, Mr. Kaufman first, then Mr. Bustamante,  
8 then Mr. Guardino. Because the next two Counties to come  
9 before us are in a very similar situation as well.

10 So Mr. Kaufman?

11 VICE CHAIRPERSON KAUFMAN: Well, I guess I'm as  
12 perplexed as everybody else. And I don't know if the  
13 other Counties coming have the same type of time schedule  
14 that you all have before you that Sutter has put forth.  
15 Is that the case or no?

16 CHAIRPERSON PÉREZ: Well, if it would be helpful,  
17 what we can do is basically move on to hear the staff  
18 recommendations for Tulare and Yuba, allow the  
19 representatives from Tulare and Yuba to speak as well,  
20 and then figure out if the three Counties are similarly  
21 situated or if there's any -- if there's any value in  
22 looking at specific differences between them.

23 VICE CHAIRPERSON KAUFMAN: I think that would be  
24 a good idea because I hate to -- I think we should be  
25 dealing with everybody that's involved in the same

1 category as one.

2 CHAIRPERSON PÉREZ: Okay. Mr. Bustamante, are  
3 you comfortable with us moving forward on that same  
4 track?

5 BOARD MEMBER BUSTAMANTE: Well, but Tulare has a  
6 different system than the Sequoia system; correct? So  
7 how is there similarities?

8 MS. LEAN: No, they actually have the same.

9 CHAIRPERSON PÉREZ: Yeah, Tulare has the AVC --

10 BOARD MEMBER BUSTAMANTE: Oh, you're right,  
11 you're right, you're right.

12 CHAIRPERSON PÉREZ: -- Edge II DRE, 126 units.

13 BOARD MEMBER BUSTAMANTE: Yeah, yeah, I'm sorry.  
14 I saw the Optech Insight.

15 VICE CHAIRPERSON KAUFMAN: Yeah, they have a  
16 different optical scan system.

17 CHAIRPERSON PÉREZ: Right, but the same DRE.

18 BOARD MEMBER BUSTAMANTE: I have a -- I have a  
19 question actually of Sequoia.

20 CHAIRPERSON PÉREZ: Go ahead.

21 BOARD MEMBER BUSTAMANTE: Well, my question is,  
22 you know, there were media reports that talked about  
23 deadlines for state testing. In the same media reports,  
24 the Secretary of State said that he wanted testing done  
25 before the end of January. And Sequoia representatives

1 had indicated they wouldn't be doing theirs until  
2 February. And the Secretary of State in the media  
3 reports indicated that if it hadn't been completed by  
4 January, that they wouldn't be certified by March, which  
5 wouldn't allow them to be available for the primary. So  
6 I'd like the Sequoia representative to kind of reconcile  
7 her previous statements with the media reports.

8 MS. NOELL: First of all, let me state that I'm  
9 not on the certification team. But as I understand it,  
10 the indication from the Secretary of State's Office has  
11 been that the application had to be received in January.

12 BOARD MEMBER BUSTAMANTE: I see. I'm just  
13 reading from the media reports, and it just says that  
14 according to the Secretary of State that U.S. makers of  
15 voting machinery be finished with national testing and  
16 ready for state testing by the end of January.

17 MS. NOELL: And again, let me again -- I keep  
18 qualifying myself that I'm not on the certification team,  
19 but as I understand it --

20 CHAIRPERSON PÉREZ: Well, do you have anybody  
21 else from your company with you?

22 MS. NOELL: No.

23 CHAIRPERSON PÉREZ: Do you have anybody from your  
24 testing team who could be here in the next hour?

25 MS. NOELL: No.

1 BOARD MEMBER BUSTAMANTE: Forgive me for a  
2 second, your name is Michelle; right?

3 MS. NOELL: No, this is Sheree Noell.

4 BOARD MEMBER BUSTAMANTE: Oh, Sheree, I'm sorry.  
5 Okay.

6 MS. NOELL: Michelle is, in fact --

7 BOARD MEMBER BUSTAMANTE: Your spokesperson,  
8 Michelle Shafer, said that -- that apparently that you  
9 would be doing this sometime in February.

10 MS. NOELL: Correct.

11 BOARD MEMBER BUSTAMANTE: So I'm just kind of  
12 curious, how do you reconcile those two?

13 MS. NOELL: Well, the information that we have  
14 received is that the application has to be received in  
15 January and then the date for testing following that.

16 BOARD MEMBER BUSTAMANTE: So --

17 MS. NOELL: And that's the communication as I  
18 understand it between Sequoia and Mr. McDannold.

19 BOARD MEMBER BUSTAMANTE: So Jana, is there  
20 somebody from the Secretary of State's Office that can  
21 clarify what's been reported to the press versus what the  
22 Sequoia representative is saying?

23 MS. LEAN: Actually, I can. I can give you a  
24 little more information. There was a meeting yesterday  
25 in the office of Voting Systems Technology Assessment.

1 And in that meeting they did indicate to staff that the  
2 vendor informed us last week that they anticipate  
3 completing federal testing by the end of this month and  
4 they also anticipated submitting an application by the  
5 end of this month in order to move forward and get the  
6 certification for the June 2006 primary. And that was  
7 information that we had as of yesterday.

8 BOARD MEMBER BUSTAMANTE: My question is the  
9 Secretary of State was reported to have said that  
10 testing, state testing, needed to have been completed by  
11 the end of January, which I guess is inconsistent with  
12 Sequoia's plans, and so I'm just wondering what that  
13 does.

14 MS. LEAN: Actually, we did send a letter to some  
15 of the voting system vendors, and Sequoia was one of  
16 them. The Secretary did submit a letter and said that in  
17 order to have timely certification, they must have -- a  
18 complete package must be received by January 20th and  
19 that federal testing must be completed by January 31st of  
20 this year.

21 BOARD MEMBER BUSTAMANTE: What about the state  
22 testing?

23 MS. LEAN: State testing would be scheduled after  
24 that. That's why it's such a tight time frame.

25 CHAIRPERSON PÉREZ: So the key date there then

1 would be the January 20th date, which is the day after  
2 tomorrow, and that's the complete package, which is in  
3 question now, whether, in fact, what the Sequoia  
4 representative asserts was sent last night has been  
5 received and, if so, whether or not it was a complete  
6 package, which would lend itself to evaluation.

7 BOARD MEMBER BUSTAMANTE: Got it.

8 MS. LEAN: I do apologize for not having a voting  
9 system person here to address your questions but --

10 BOARD MEMBER BUSTAMANTE: No, I think that  
11 clarifies it for me.

12 MS. LEAN: Okay.

13 CHAIRPERSON PÉREZ: Mr. Guardino?

14 BOARD MEMBER GUARDINO: No, I'm fine.

15 CHAIRPERSON PÉREZ: Mr. Finney?

16 BOARD MEMBER FINNEY: No questions.

17 CHAIRPERSON PÉREZ: Okay. Then what I'd like to  
18 do is take a little bit of a break here from Sutter,  
19 receive the staff report for Tulare and Yuba, and then  
20 have the representatives of Tulare and Yuba come up and  
21 talk to us as well, and then we can figure out how to  
22 evaluate this together.

23 So if you would walk us through item five C,  
24 Tulare County.

25 Let's just take a one quick second break.

1 MS. LEAN: Sorry about that.

2 Okay. Tulare County. Their project  
3 documentation is a little bit different than Sutter and  
4 Yuba, but Tulare County submitted a project documentation  
5 plan, and the staff is recommending a funding award that  
6 is not their entire allocation. The funding award the  
7 staff is recommending is \$1,389,047.14. Tulare County  
8 will be purchasing the Optech Insight precinct ballot  
9 counters, 115 units, and also the AVC Edge II DRE, 126  
10 units, with the VeriVote, 160 units. They also plan to  
11 purchase the Optech 400-C ballot counters as their  
12 absentee system, two units.

13 Tulare County's plan indicates an expectation to  
14 begin receiving their new equipment in January of 2006  
15 and delivery to be complete by the end of March 2006.  
16 The actual delivery terms of the vendor contract are more  
17 ambiguous, as was in the last staff report. The contract  
18 language estimates delivery date at or about five months  
19 from the date of the contract with a caveat on delivery  
20 of two potentially different Optech Insight model  
21 versions. The County plans to begin using this equipment  
22 in the June 6, 2006 primary.

23 And the AVC Edge DRE units do have a printer, the  
24 VeriVote printer, which is a VVPAT component.

25 Tulare County's project documentation meets all



1 the requirements for completeness. The Sequoia AVC  
2 units, Edge II DRE units with the VeriVote printers, the  
3 Optech Insight units, and the Optech 400-C units are  
4 certified for use in California.

5 The software used to run the AVC Edge units  
6 currently has a condition, as we've been talking about,  
7 on the certification for its use, as the software cannot  
8 be used in the primary election. The condition is  
9 expected to be resolved prior to the June 6th, 2006  
10 primary. As we stated earlier, however, no application  
11 has yet been received by the Secretary of State's Office  
12 to accomplish that. And unless an application is brought  
13 forward by the vendor before the end of January, it  
14 appears unlikely that the Sequoia AVC Edge DRE units with  
15 the VeriVote printers would be certified for use during  
16 the June 6, 2006 primary.

17 Tulare County will be converting from the Diebold  
18 AccuVote optical scan. Tulare County believes that the  
19 deployment of one DRE unit and one optical scan unit in  
20 all of its polling places will bring the County into full  
21 compliance with the requirements of the Help America Vote  
22 Act. The DRE units will provide access to voters with  
23 disabilities and will also satisfy the second-chance  
24 voting requirements by not allowing overvotes and  
25 identifying undervotes.

1 Tulare County plans to conduct a rigorous public  
2 relations program to educate voters on both the new  
3 optical scan ballots and the DREs.

4 Tulare County's vendor contract contains a  
5 provision that allows for receipt of two different models  
6 of the Optech Insight optical scan voting equipment  
7 contingent upon the vendor gaining certification on its  
8 newest version of the Optech Insight with an LCD  
9 component.

10 The ambiguity of the delivery terms appears to be  
11 tied to this provision. It appears that if at the time  
12 of the delivery of the equipment the Optech Insight with  
13 the LCD component is certified for use in California,  
14 this equipment will be delivered to Tulare County.  
15 However, because Election Code section 19234(b) requires  
16 Voting Modernization funds to be expended only on  
17 certified voting systems, the currently certified Optech  
18 Insight optical scan equipment identified in Tulare  
19 County's project documentation plan without the LCD  
20 component is the only version of this equipment that the  
21 Voting Modernization Board may approve for reimbursement  
22 at this time.

23 The funding award must be based upon allowable  
24 reimbursement under Proposition 41 for the voting  
25 equipment hardware and software only. The installation,

1 training, outreach, and extended warranty costs listed in  
2 Tulare County's plan would not be covered as reimbursable  
3 claims under Proposition 41. These nonallowable expenses  
4 equate to approximately \$475,000 of the County's overall  
5 voting system costs.

6 As the contract between Tulare and Sequoia Voting  
7 Systems is written at this time, Tulare County may not be  
8 eligible to receive their entire VMB-approved allocation  
9 amount taking into account the County's three to one  
10 match. Tulare County will only receive VMB payments once  
11 they have submitted invoices for their certified voting  
12 equipment.

13 It is our recommendation that Tulare County's  
14 project documentation plan be approved with the condition  
15 that this approval extends to equipment currently  
16 certified for use in California. If upon its  
17 certification Tulare County wishes to instead purchase  
18 Optech Insight with the LCD component, the County may  
19 submit an amendment to this application for consideration  
20 by the Board. Therefore we recommend a funding award be  
21 issued for allowable expenses only in amount of  
22 \$1,389,047.14.

23 Any questions?

24 CHAIRPERSON PÉREZ: Any questions on the report,  
25 other than the questions that we already anticipate?

1           VICE CHAIRPERSON KAUFMAN: Well, actually, yes, I  
2 had a question. I was getting a little confused by the  
3 two options for the two different models.

4           CHAIRPERSON PÉREZ: With the LCD and without the  
5 LCD?

6           VICE CHAIRPERSON KAUFMAN: Yeah. I guess I'm  
7 reading the words, but I'm having a little trouble  
8 understanding what the -- what one will do that the other  
9 won't in the event that -- that the other system isn't  
10 certified.

11          MS. LEAN: That wasn't clear in the contract. I  
12 just -- I noticed that this was a provision of the  
13 contract, that they receive one or the other. We do have  
14 the voting system vendor here today. If they could  
15 provide some light on that, I would appreciate that.

16          VICE CHAIRPERSON KAUFMAN: Okay.

17          CHAIRPERSON PÉREZ: Okay. Let's wait for a  
18 second because I've got the same concern, Mr. Kaufman.  
19 Does it mean they'll get their choice of the two systems?  
20 Does it mean they'll get the vendor's choice of the two  
21 systems? Does it mean we'll ever actually find out what  
22 system they got and whether or not we funded the  
23 appropriate thing?

24          VICE CHAIRPERSON KAUFMAN: Right.

25          MS. NOELL: Sheree Noell with Sequoia Voting

1 Systems, again.

2 The options were such that we understood we,  
3 the -- Sequoia and the County, that they could not  
4 purchase a system that had not been certified, so --  
5 excuse me -- there was an option in the contact -- there  
6 is an option in the contract that if the new Insight LCD  
7 is certified in time for the June primary, that that's  
8 the product that would be delivered. And it was part of  
9 the application that was submitted last night.

10 CHAIRPERSON PÉREZ: And what's the difference in  
11 the functionality of the new versus --

12 MS. NOELL: It's all a printout. It's the LCD  
13 printout on the front of the machine. The functionality  
14 doesn't change. It's just the way it is displayed that  
15 changes. But, of course, as we understand, any change  
16 needs, you know, certification. That's what it is. It  
17 is an LCD display on the front of the machine.

18 CHAIRPERSON PÉREZ: As opposed to?

19 MS. NOELL: As opposed to not an LCD. There's no  
20 display on the other one.

21 CHAIRPERSON PÉREZ: Okay.

22 VICE CHAIRPERSON KAUFMAN: So -- so we're  
23 actually talking about two different systems that are --  
24 this is a system that's seeking certification as opposed  
25 to the -- the AVC Edge units which have a condition

1 attached to them?

2 CHAIRPERSON PÉREZ: That's right, Mr. Kaufman.

3 MS. NOELL: As I understood it --

4 VICE CHAIRPERSON KAUFMAN: This is a wholly  
5 separate issue with respect to the optical scan unit from  
6 the certification of the --

7 CHAIRPERSON PÉREZ: Correct. Correct. So we've  
8 got two -- we've got two variables here whereas in Sutter  
9 we had one variable. Here we have the variable of the  
10 software certification for the primaries, and then we  
11 have the variable of whether or not the new LCD optical  
12 scan machine is certified, and if so that would be what  
13 went to the County, which would then necessitate the  
14 County coming back to us, whereas if they weren't  
15 certified and went forward with a previously certified  
16 system, then the County would not necessarily need to  
17 come back before us.

18 VICE CHAIRPERSON KAUFMAN: Correct. And so none  
19 of the -- the whole issue about providing one or the  
20 other has nothing to do with the first issue, which is  
21 the certification of the -- the Edge units because that  
22 decision does not impact the optical scan system that's  
23 selected?

24 CHAIRPERSON PÉREZ: Correct.

25 MS. LEAN: That is correct. It's my

1 understanding from Bruce McDannold that Sequoia was going  
2 to present this in one big package, that they would  
3 present an application for the DRE AVC Edge with the --  
4 taking the certification condition off and also with the  
5 new optical scan precinct ballot counters are all part of  
6 the whole application to move forward from federal  
7 testing.

8 VICE CHAIRPERSON KAUFMAN: And it sounds like  
9 what may have been done since she represented in  
10 reference to the application from last night again.

11 Was that correct?

12 MS. NOELL: Yes.

13 CHAIRPERSON PÉREZ: Okay. Mr. Bustamante?

14 BOARD MEMBER BUSTAMANTE: No questions.

15 CHAIRPERSON PÉREZ: Mr. Guardino?

16 BOARD MEMBER GUARDINO: No.

17 CHAIRPERSON PÉREZ: Mr. Finney.

18 BOARD MEMBER FINNEY: Just to hear from the  
19 County on this issue.

20 CHAIRPERSON PÉREZ: Very good. If we could have  
21 a representative of Tulare come forward. And we're being  
22 joined by Hiley Wallis from Tulare.

23 MS. WALLIS: Hiley Wallis, Tulare County  
24 elections manager.

25 CHAIRPERSON PÉREZ: So, I mean you heard our

1 exchange with Sutter. And I guess given that exchange,  
2 if there's anything you want to tell us first, and then  
3 we'll open to the Board members to ask you any follow-up  
4 questions.

5 But my questions were, you know, what if we put  
6 off till February? What if we created a condition that  
7 if we didn't receive the documentation by the end of this  
8 month, that our approval sunsets? What if we split the  
9 baby, in your case, between your optical scan and your  
10 DRE?

11 MS. WALLIS: Okay. Well --

12 CHAIRPERSON PÉREZ: And what are you planning to  
13 do -- what are you planning to do for your primary, I  
14 guess. This is the most important question. What are  
15 you planning to do for your primary if, in fact, the DRE  
16 isn't approved for a primary?

17 MS. WALLIS: Well, you know, we're -- Tulare  
18 County anticipates going paper based and that the DRE is  
19 just a HAVA compliant machine that's going to be at each  
20 polling site, so whether we deploy those or not is not  
21 our main emphasis in the election or buying the new  
22 equipment.

23 My concern with any kind of stipulation today  
24 would be that you're -- No. 1, you're giving us  
25 something -- in my understanding, you're telling us one



1 thing and you've already approved numerous other Sequoia  
2 counties to do something, and you're telling us we can't.  
3 So that doesn't seem equitable to me.

4 And secondly, you know, we do have a deadline.  
5 Every County has a deadline in elections. And we're just  
6 right up against it, and we've waited as long as we could  
7 to allow anybody, you know -- or to allow who we felt was  
8 our best choice to become compliant. And we -- we have  
9 every faith that they will. And so we need to move  
10 forward, and we would hope that you would too.

11 CHAIRPERSON PÉREZ: Okay. Let me take the first  
12 crack at this. I mean, we have \$200 million. That's it.  
13 We have a one-time approval from the voters. And we were  
14 created as a board to act in the interest of the voters  
15 in figuring out how to distribute that money.

16 We went through a very exhaustive process that  
17 enabled us to come up with a funding allocation formula  
18 that initially allocated 1.75 million to your County. We  
19 did that understanding that these were very important  
20 questions and that the Counties would match us with one  
21 dollar for every three we put in. And so I, for one,  
22 take very seriously the protection of that public money  
23 in expending it.

24 And I think I stated earlier the difference  
25 between how I view where we're at at this moment versus

1 where we were previously is because the deadline has  
2 gotten to a point where it's a more and more critical  
3 consideration. And so my concern is that not putting  
4 some sort of condition allows for the expenditure of  
5 money that, in fact, may be expended in a way that's more  
6 beneficial to the voters in this ever-changing world.

7 So I don't want to create unreasonable situations  
8 for the Counties any more so than anybody else has, but I  
9 also want to make sure that we hold these vendors  
10 accountable for providing the equipment that they have  
11 sold to you and basically convinced us all that they were  
12 going to be able to deliver.

13 So you're more than welcome to respond to that.  
14 If not, I'll open it up to the other Board members.

15 MS. WALLIS: Well, so do you anticipate going  
16 back to the other Counties you've already approved? I  
17 mean, what do you anticipate doing? There's only one  
18 theoretical vendor that's totally certified at this  
19 point, so what about -- what about all the ones that  
20 you've already approved, whether it's Sequoia or ES&S --  
21 or not ES&S, but Diebold or Hart? You know, everybody  
22 else is on this list.

23 CHAIRPERSON PÉREZ: Right. That actually informs  
24 my concern, because quite frankly we have expended money  
25 and then the rules have changed, and some Counties have

1 actually purchased equipment that isn't going to be  
2 usable, and they're in the very difficult situation of  
3 being able to figure out whether they can come back to us  
4 again for money. And quite frankly, my concern is the  
5 County is spending their one dollar for the three that we  
6 put in on a system that at the end of the day may not  
7 serve their needs. And so that's what informs my  
8 thinking.

9 Mr. Kaufman?

10 VICE CHAIRPERSON KAUFMAN: Well, Mr. Chair, I  
11 think you've pretty well expressed this. I'm not sure I  
12 have anything to add.

13 CHAIRPERSON PÉREZ: Mr. Bustamante?

14 BOARD MEMBER BUSTAMANTE: I would say the same.

15 CHAIRPERSON PÉREZ: Mr. Guardino?

16 BOARD MEMBER GUARDINO: Likewise.

17 CHAIRPERSON PÉREZ: Mr. Finney?

18 BOARD MEMBER FINNEY: In some cases we also did  
19 put a condition, like a sunset-type of condition on our  
20 approval.

21 CHAIRPERSON PÉREZ: In at least two Counties.

22 BOARD MEMBER FINNEY: But what happened was, as  
23 the Chairman is stating, the rules changed. We were  
24 moving at a pretty clipped pace, and things dramatically  
25 shifted. And now the question becomes if ultimately, God

1 forbid, the system you've chosen doesn't get approved and  
2 at some point in time you feel, you know, the County  
3 desires to try to come back and get additional moneys, if  
4 those moneys went into the -- were approved and expended  
5 on the machines you couldn't ultimately use, there's  
6 simply no money left to come back to get. That's the  
7 risk that's being run by the Counties in this  
8 circumstance.

9 Now, in this case, it's once again the same  
10 machine, which means it's approved for the general. I  
11 want to reemphasize that. This machine for both hardware  
12 and software purposes can be used by all these Counties,  
13 at least the three before us and the others that have it,  
14 in the general election. And from a hardware  
15 perspective, it's been approved. It seems to be one part  
16 of the software or one aspect of the software as it  
17 relates to -- we have to look at the legal side of it --  
18 probably a regulation that's been promulgated by the --  
19 by the agency that relates to how to address decline to  
20 state voters and the reporting side of it.

21 And I can't speak to unfortunately whether that's  
22 going to pass or not. We know the application is now in.  
23 I imagine that there would be a fairly quick turnaround  
24 on the part of Sequoia if the Secretary of State's Office  
25 comes back and says it isn't quite enough information for

1 us. I mean, this is a real tricky one here.

2 CHAIRPERSON PÉREZ: Let me ask a question of  
3 Hiley, because I understand your frustration, and I'm  
4 sure you feel like you're being bounced around from  
5 agency to agency between the federal standards, the state  
6 standards, the certification process, and then us  
7 ultimately allocating the money, and believe me, I  
8 emphasize with that experience.

9 So I guess I'd come back to you with the first  
10 question that I asked Sutter, if we put this off, if we  
11 just defer consideration of this until the February  
12 meeting so that the answer is there for us, what harm is  
13 done to your County?

14 MS. WALLIS: Well, outside of we don't know --  
15 well...

16 CHAIRPERSON PÉREZ: I'm happy to have Sequoia  
17 answer the question --

18 MS. WALLIS: Okay.

19 CHAIRPERSON PÉREZ: -- from their perspective.  
20 Well, if it was her perspective, she can address it.

21 MS. WALLIS: Well, it all -- it all boils down to  
22 time. If you put my money off until February, which  
23 starts the 113 days, the nomination period, where I  
24 should be setting up my equipment and I have no equipment  
25 to set up, you know, I don't -- I don't have -- it makes

1 that chance of getting to the June deadline even further.  
2 And since my main stay is the paper ballot, which I  
3 understand the optical scan section of this equipment is  
4 approved --

5 CHAIRPERSON PÉREZ: Given that your main stay is  
6 the paper ballot, what if we bifurcated your approval --

7 VICE CHAIRPERSON KAUFMAN: And what if we --

8 CHAIRPERSON PÉREZ: -- approved -- approved that  
9 portion of the money that's -- that's allocatable to your  
10 paper ballot system and put off your DRE consideration  
11 until February? So that allows you to move forward with  
12 the implementation that you need for your paper ballot  
13 system, and quite frankly allows you to do everything but  
14 pay for your DRE system. If, in fact, they act in a way  
15 consistent with the requirements of the Secretary of  
16 State, then it's just a matter of quick approval on  
17 February 15th. So if we bifurcate that, give you your  
18 money for your paper ballot system now, what's the harm  
19 that's done?

20 MS. WALLIS: Well, if --

21 BOARD MEMBER GUARDINO: Mr. Chairman?

22 BOARD MEMBER BUSTAMANTE: Yes, Mr. Guardino.

23 BOARD MEMBER GUARDINO: Mr. Chairman, this is  
24 Carl Guardino. With apologies, I have to step into  
25 another board meeting for a board on which I serve. The

1 direction that you are suggesting is well within my  
2 comfort level.

3 CHAIRPERSON PÉREZ: Thank you, Mr. Guardino, and  
4 thank you for joining us.

5 BOARD MEMBER GUARDINO: Thank you, sir.

6 CHAIRPERSON PÉREZ: And we still maintain our  
7 quorum with four member present.

8 MS. WALLIS: Well, if you're going to give me one  
9 or the other, I would prefer that you give me a sunset on  
10 my -- on the contract so that we're not back here next  
11 month if, in fact, everything does go through as I, you  
12 know, pray to God it does. So, you know, that would not  
13 take another one of my days and -- you know, because I am  
14 getting very time sensitive.

15 CHAIRPERSON PÉREZ: I absolutely understand that.

16 MS. WALLIS: Okay. So if I have to choose, I'd  
17 rather have a sunset than nothing.

18 CHAIRPERSON PÉREZ: Okay. Thank you.

19 Any other questions for Ms. Wallis from Tulare?

20 VICE CHAIRPERSON KAUFMAN: Just so I'm clear --

21 CHAIRPERSON PÉREZ: Mr. Kaufman.

22 VICE CHAIRPERSON KAUFMAN: -- Ms. Wallis would  
23 rather have a -- you'd rather look at it from the sunset  
24 perspective rather than bifurcate?

25 MS. WALLIS: Okay. If --

1           CHAIRPERSON PÉREZ:  You're okay with bifurcation  
2 either way because bifurcation allows us to fund your  
3 entire paper ballot system now, and then the question  
4 becomes what we do with the other half.  And you're  
5 comfortable with -- you're more comfortable, not  
6 comfortable.  You're more comfortable with us creating a  
7 sunset for the DRE money as opposed to requiring you to  
8 come back in February for DRE money; am I correct?

9           MS. WALLIS:  If -- yes.  That means you're  
10 approving all of it based on future actions.

11          CHAIRPERSON PÉREZ:  Correct.

12          VICE CHAIRPERSON KAUFMAN:  Okay.  But only --

13          MS. WALLIS:  I'd rather have a sunset.

14          VICE CHAIRPERSON KAUFMAN:  But only as to that  
15 second component.

16          CHAIRPERSON PÉREZ:  Correct.

17          VICE CHAIRPERSON KAUFMAN:  Okay.

18          CHAIRPERSON PÉREZ:  Correct.

19          MS. NOELL:  This is Sheree with Sequoia.

20                I do have something I'd like to point out, in  
21 that when you're referring to the February --

22          CHAIRPERSON PÉREZ:  Now, is this your perspective  
23 or Tulare's perspective?

24          MS. NOELL:  This is my perspective.

25          CHAIRPERSON PÉREZ:  Okay.



1 MS. NOELL: The February date that you're  
2 referring to, as I understand it from the State's  
3 perspective regarding certification, Sequoia may begin  
4 its testing in February, but the State of California has  
5 a 55-day window by which they will certify. So by  
6 February 15th, the testing may well be done, but the  
7 State may not have given the proper paperwork.

8 CHAIRPERSON PÉREZ: That's not the issue I  
9 raised.

10 MS. NOELL: Okay.

11 CHAIRPERSON PÉREZ: What I raised was whether or  
12 not your company provided a complete package consistent  
13 with the letter from the Secretary on January 13th.

14 MS. NOELL: Okay.

15 CHAIRPERSON PÉREZ: So it's not a question of the  
16 action or the outcome of that process --

17 MS. NOELL: Just the action.

18 CHAIRPERSON PÉREZ: -- but the action from your  
19 side which you can be held responsible for with respect  
20 to the completeness of the package that is then available  
21 for review.

22 MS. NOELL: Understood. I just want to make sure  
23 that I'm on the same page.

24 CHAIRPERSON PÉREZ: Okay. Thank you very much,  
25 Ms. Wallis. If it meets with everybody's approval, I'd

1 like to hold off taking specific action on Tulare and now  
2 hear the staff report for Yuba County and then a  
3 representative from Yuba County come forward as well.

4 BOARD MEMBER FINNEY: Thank you.

5 CHAIRPERSON PÉREZ: Thank you very much.

6 We really aren't trying to create more road  
7 blocks, even though it feels that way.

8 Actually, can we take a two-or-three-minute  
9 break? Is that okay with everybody? Or do you want to  
10 just take over the chair for two or three minutes?

11 BOARD MEMBER FINNEY: I can do that.

12 CHAIRPERSON PÉREZ: Why don't you take over the  
13 chair for two or three minutes, Mr. Finney.

14 BOARD MEMBER FINNEY: All right.

15 CHAIRPERSON PÉREZ: Go ahead.

16 BOARD MEMBER FINNEY: Okay.

17 CHAIRPERSON PÉREZ: I've read your staff report,  
18 right.

19 BOARD MEMBER FINNEY: Okay. Actually, let's have  
20 the staff report. I'll sub in for Mr. Kaufman who's the  
21 formal vice chair only because I'm sitting here in  
22 person, I guess.

23 VICE CHAIRPERSON KAUFMAN: You have my  
24 authorization.

25 BOARD MEMBER FINNEY: Great.

1           VICE CHAIRPERSON KAUFMAN:  You're in a much  
2 better position.

3           BOARD MEMBER BUSTAMANTE:  Fine with me.

4           BOARD MEMBER FINNEY:  Okay.  Please proceed.

5           MS. LEAN:  Yuba County's project documentation  
6 plan has been submitted.  Staff recommends allocating a  
7 full allocation of \$339,538.  They are purchasing the  
8 Sequoia AVC Edge DRE units, 140 units, with the VeriVote  
9 printers, 157 units, and the Optech Insight ballot  
10 counters, two units.

11           And as we talked about before, the acquisition  
12 schedule, the actual delivery terms of the vendor  
13 contract are ambiguous.  The contract language estimates  
14 delivery at or about four months from the date of the  
15 contract, and the County plans to begin using the  
16 equipment in the June 6, 2006 primary.

17           The AVC Edge DRE with the VeriVote, it does have  
18 a voter verified paper audit trail component.

19           Yuba County's project documentation plan meets  
20 the plan for completeness.  The staff recommends  
21 requesting an additional acquisition schedule and project  
22 documentation time line to be provided once the County  
23 and the vendor have established actual delivery dates.

24           The Sequoia AVC Edge units with the VeriVote  
25 printers, the Optech Insight units and the Optech 400 --

1 let me see, I'm sorry -- and the Optech Insight units are  
2 certified for use in California. The software used to  
3 run the AVC Edge units, as we have talked about,  
4 currently have a conditional certification for its use as  
5 a software, cannot be used at a primary election. I will  
6 continue reading. The condition is expected to be  
7 resolved prior to the June 6, 2006 primary.

8           However, no application for this upgrade has yet  
9 been received by the Secretary of State's Office and  
10 unless the application is brought forward by the vendor  
11 before the end of January, it appears unlikely that the  
12 Sequoia AVC Edge DRE units with the VeriVote printers  
13 would be able to be certified for use during the June 6,  
14 2006 primary.

15           Yuba County will be converting from the Datavote  
16 punch card system. Yuba County will use the Optech 400-C  
17 as their absentee system and will be implementing the AVC  
18 Edge DRE units as their precinct-based voting system in  
19 all of their polling places during the June 6, 2006  
20 primary. Yuba County believes that the deployment of DRE  
21 units in all the polling places will bring the County  
22 into full compliance with the requirements of the Help  
23 America Vote Act as well as provide greater accessibility  
24 to voters who need special accommodations and voters who  
25 desire to vote in Spanish.

1           Yuba County plans to conduct -- or sorry, plans  
2           to contract with an outside consultant to assist in the  
3           development and implementation of a project plan to fully  
4           implement the new voting system. The County is currently  
5           developing a voter outreach and education program for the  
6           new voting equipment. And Yuba County plans to require  
7           all staff and coworkers to complete a hands-on training  
8           to become familiar with the voting units.

9           Yuba County will only receive VMB payments once  
10          they have submitted invoices for the purchase of the  
11          voting equipment.

12          Please note that the staff-proposed funding award  
13          is based upon allowable reimbursement under  
14          Proposition 41 for voting equipment hardware and software  
15          only. The installation, training and poll worker -- the  
16          installation, training and poll worker training, the  
17          voter outreach costs listed in Yuba County's plan would  
18          not be covered as a reimbursable claim under  
19          Proposition 41.

20          Staff recommends requesting that an additional  
21          acquisition schedule and project time line be provided  
22          once the County and the vendor have established actual  
23          delivery dates.

24          It is our recommendation that Yuba County's  
25          project documentation plan be approved and a funding

1 award letter be issued in the amount of \$339,538.

2 Any questions?

3 CHAIRPERSON PÉREZ: I think what we'll do is go  
4 directly to the representative from Yuba, unless somebody  
5 has a burning question.

6 If you would identify yourself, please.

7 MS. HANSEN: My name is Terry Hansen. I'm the  
8 county clerk/registrar of voters in Yuba, California.

9 CHAIRPERSON PÉREZ: Thank you for joining us.  
10 And I'm sure you feel as frustrated as your other  
11 colleagues in terms of where we're at at this point. If  
12 you could maybe answer first the question of should we  
13 not -- should the system not be approved in time to be  
14 used in the June primary, what system would you use in  
15 the June primary?

16 MS. HANSEN: Well, we're on Datavote. Currently  
17 we're a Datavote punch card system, so we do not have the  
18 option of continuing. That isn't an option. We have got  
19 to change voting systems for the June primary. Our  
20 consideration would be to use the optical scan, as  
21 indicated by Sutter County, in the -- in the June  
22 primary. We would use it in all our polling places.

23 CHAIRPERSON PÉREZ: And so you -- but you'd have  
24 to do it centralized with the two?

25 MS. HANSEN: We would do a centralized count;

1 that is correct.

2 CHAIRPERSON PÉREZ: And that's a new system that  
3 you need to acquire at this point as well?

4 MS. HANSEN: That's correct. We are brand-new  
5 from beginning to end here because of our Datavote  
6 status.

7 CHAIRPERSON PÉREZ: If you could, maybe weigh in  
8 on, you know, I think you've heard probably more from me  
9 than you wanted to about the options as I see them, but  
10 if you would weigh in on how you view the issue of coming  
11 back before us or the issue of us doing conditional  
12 approval and having a sunset date or what harm is done to  
13 you if we do either of those two things.

14 MS. HANSEN: I guess what ideally I would like to  
15 see is that the funding be awarded, because I do agree  
16 that there's an equitability issue here. Other  
17 Counties -- and I do -- I do sympathize with your  
18 concerns, but I think we all need to be treated as much  
19 as we can on any equal playing field.

20 And so with that said, I would like to see the  
21 funding be approved today so that we can go forward.  
22 Obviously reimbursement is not made unless we purchase  
23 equipment that is certified, so we wouldn't be able to  
24 submit an invoice for payment unless the equipment had  
25 been certified.

1           CHAIRPERSON PÉREZ:  Actually, let me ask a  
2   question on that.  Because the hardware is certified for  
3   both primary and general but only the software is at  
4   issue with respect to the primary, is Ms. Hansen correct  
5   that she wouldn't be able to get reimbursement until that  
6   primary software certification issue is resolved,  
7   Mr. Kanotz?

8           MR. KANOTZ:  This is Michael Kanotz speaking.

9           My understanding is that the voting system is  
10  actually certified as an entire system so that although  
11  the issue is with the software in terms of a primary  
12  election, the conditional certification that the system  
13  has right now would have to be essentially reconsidered  
14  in this application process and certified without that  
15  condition for the system to be certified -- for the  
16  system to be usable during the primary.  It's a little  
17  complicated because of the condition.

18          BOARD MEMBER FINNEY:  So the primary then.  So  
19  for purposes of the general, they could submit for  
20  reimbursement after the primary, if, once again God  
21  forbid, it wasn't approved prior?

22          MS. LEAN:  Well, technically the hardware is  
23  certified.

24          BOARD MEMBER FINNEY:  No, no, but he's saying  
25  that the system is approved and certified as a whole,



1 meaning that they could not seek reimbursement for the  
2 system for the primary if it is not ultimately certified  
3 in the next couple of months, but that one could argue  
4 then they could submit for reimbursement of the system  
5 going into the general.

6 CHAIRPERSON PÉREZ: Unless there's still an  
7 unresolved question of certification for a primary in  
8 2008.

9 VICE CHAIRPERSON KAUFMAN: Except that -- correct  
10 me if I'm wrong. We had Counties that used this system  
11 last fall in the special election, in fact, I think we  
12 heard from one a couple months ago.

13 MS. LEAN: That's correct.

14 CHAIRPERSON PÉREZ: Have we reimbursed those  
15 Counties?

16 MR. KANOTZ: No, it gets a little technical  
17 because of the condition. But this system is a certified  
18 system, and it could be reimbursed for today under the  
19 provisions of the Voting Modernization Act.

20 CHAIRPERSON PÉREZ: So --

21 MR. KANOTZ: Whether it can be used in the  
22 primary is a different question. And because of the  
23 condition, it -- as of -- as it stands today, it could  
24 not be used in the primary.

25 CHAIRPERSON PÉREZ: So getting back to the

1 statement that Ms. Wallis -- Ms. Hansen, I'm sorry, made  
2 about them not being able to draw down the money until  
3 the certification issue with respect to the primary  
4 software was resolved, that's not your understanding; in  
5 fact, they could draw down the money prior to that --  
6 prior to that resolution? It's just the usability of the  
7 system that's at question?

8 MS. LEAN: I would agree with that assessment.

9 CHAIRPERSON PÉREZ: Okay. So you wouldn't have  
10 to -- there would be no further check for the money --  
11 check not in the financial sense, check as in the checks  
12 and balances sense -- if we were to approve today.

13 So how do you -- understanding that your ideal is  
14 for us to approve the full amount consistent with the  
15 staff report now, how would you view, first of all,  
16 bifurcation so that we considered your paper ballot  
17 system separate from your DRE system? And second, if we  
18 go that way, would you prefer having to come back before  
19 us in February or having a sunset on the allocation for  
20 the DRE money?

21 MS. HANSEN: I would prefer leaving here today  
22 knowing that the funding is available to me to purchase  
23 my optical scan system. And as my compatriots before me  
24 have said, we need to move forward. Yuba County is in  
25 almost a desperate situation in that we cannot use our

1 system. We have no voting system.

2 CHAIRPERSON PÉREZ: Okay. Mr. Kaufman?

3 VICE CHAIRPERSON KAUFMAN: I guess I don't think  
4 I have any further questions for Ms. Hansen.

5 CHAIRPERSON PÉREZ: Mr. Bustamante?

6 BOARD MEMBER BUSTAMANTE: No, I think we've kind  
7 of exhausted this whole issue.

8 CHAIRPERSON PÉREZ: Okay. I've got a couple of  
9 questions for Sequoia. You're more than welcome to stay  
10 up here just in case another question comes up, but  
11 you're more than free to take your regular seat as well.

12 VICE CHAIRPERSON KAUFMAN: And Mr. Chair, I'll  
13 have a question later as well.

14 CHAIRPERSON PÉREZ: Okay. So Mr. Bustamante  
15 raised questions about both the federal process and the  
16 state process and raised questions that were informed by  
17 press reports about different interpretations of the time  
18 line, some expressed by representatives of your company,  
19 some expressed by the Secretary of State. So I have a  
20 follow-up question along those lines. Has Sequoia  
21 completed the federal testing process?

22 MS. NOELL: No. We are in the federal testing  
23 process. And again, I'm not here to speak on behalf of  
24 the certification team, but as I understand it from a  
25 sales perspective --

1           CHAIRPERSON PÉREZ: Right, but you're the one  
2 that's -- I don't want to get argumentative, but you've  
3 made certain statements which have compelled these three  
4 Counties to come forward and want to do business with  
5 you.

6           MS. NOELL: Correct.

7           CHAIRPERSON PÉREZ: And I feel at this point  
8 incredibly frustrated by inconsistent sets of information  
9 that I've received from your company and, quite frankly,  
10 feel very uncomfortable committing the allocation of  
11 state moneys based on these inconsistencies. My  
12 understanding is, and perhaps somebody on the staff could  
13 correct me, but federal qualification and having received  
14 a federal qualification number is a precondition for the  
15 state certification process. And therefore in order for  
16 a packet to have been complete that was sent from your  
17 company here, that it would require a federal  
18 qualification number. Do you disagree with that  
19 assessment?

20           MS. NOELL: Yes, I disagree. As I understand it,  
21 the State of California requires me to pass a certain  
22 milestone within the federal process. Once that  
23 particular milestone is passed or is achieved, then you  
24 can submit to the State of California and then become --  
25 or begin somewhat of a simultaneous testing.

1           CHAIRPERSON PÉREZ: How is that milestone  
2 recorded?

3           MS. NOELL: That is something that is -- that's  
4 where I get into this gray area, that Bruce McDannold has  
5 had specific conversations our team, and they are working  
6 that out between them.

7           CHAIRPERSON PÉREZ: Would it helpful to you to  
8 take a five-minute break, talk to somebody on your team,  
9 and help explain to me, after you've spoken to them, what  
10 that milestone is and whether or not you've achieved it?

11          MS. NOELL: Yes. I could do that.

12          CHAIRPERSON PÉREZ: Then why don't we take a  
13 five-minute recess.

14          MS. NOELL: I want to make sure I understand the  
15 question. What is the milestone?

16          CHAIRPERSON PÉREZ: What's the milestone and how  
17 do we know you've achieved it and how do we know, in  
18 fact, you're at a point where you could have provided, as  
19 you've asserted, a complete package to the Secretary of  
20 State's Office for review, which is really fundamentally  
21 what's at issue.

22          So we'll take roughly a five-minute break --

23          MS. NOELL: Okay.

24          CHAIRPERSON PÉREZ: -- and reconvene at about  
25 12:00 noon.

1 (Recess taken.)

2 CHAIRPERSON PÉREZ: Okay. We're back in session.  
3 Go ahead. You wanted to --

4 MS. NOELL: Okay. Sheree with Sequoia again.

5 The question as I understand it from Chairman  
6 Pérez was what is the milestone and how does the State  
7 know that we've achieved it? Let me answer the second  
8 part first. I have no idea how the State knows. That's  
9 a State question, not a Sequoia question.

10 The milestone --

11 CHAIRPERSON PÉREZ: How do you report to the  
12 State?

13 MS. NOELL: Well, actually let me -- and I'll  
14 answer the first part, what is the milestone. As of the  
15 letter of January 13th and subsequent conversations, as I  
16 understand it, the invitation to submit is now absent of  
17 any milestones. So again, we go back and forth between  
18 what is the understanding and what is written. And I  
19 asked for some guidance a little bit on the lawyerly side  
20 because --

21 CHAIRPERSON PÉREZ: So your answer is there is no  
22 milestone.

23 MS. NOELL: As of now with that letter, there is  
24 no milestone.

25 BOARD MEMBER FINNEY: What does that mean?

1 CHAIRPERSON PÉREZ: There's no milestone. Okay.

2 There's no milestone.

3 MS. NOELL: The milestone was --

4 CHAIRPERSON PÉREZ: That's fine. There's no  
5 milestone. Thank you. I have no further questions for  
6 you.

7 As you can probably tell, I have reached my point  
8 of frustration. I would like to suggest that what we  
9 do -- sure, Jana.

10 MS. LEAN: I understand that the Counties might  
11 want to come up and give some additional comments at this  
12 time, if you would like to entertain that.

13 CHAIRPERSON PÉREZ: I'm always willing to hear  
14 from the Counties. And understanding that because we're  
15 going to lose two members, the more concise we are, the  
16 quicker we can resolve this hopefully in a way that's  
17 acceptable to the Counties.

18 BOARD MEMBER FINNEY: I've got three chairs here,  
19 ladies.

20 CHAIRPERSON PÉREZ: Like a barber shop, three  
21 chairs, no waiting.

22 MS. BECHTEL: Joan Bechtel, Sutter County.

23 There's just two comments additionally that I  
24 wanted to make, and I think I already made one, but I do  
25 want to clarify again. You know, I was accused last

1 night of -- at my board meeting by a member from the  
2 public, actually more than one, that I had misrepresented  
3 that Sequoia was certified. And I did not. I based that  
4 on what I have received from the Secretary of State's  
5 Office.

6 It made the front page of the paper today. I  
7 mean, I have to tell you this is -- this creates just an  
8 extremely awkward situation for me because we've also  
9 made our first payment, which was part of our contract.  
10 We've made our first payment to Sequoia. And for us to  
11 be treated differently than the other Counties already  
12 have been, it looks like there is a major problem and  
13 that I was somehow aware of it or wasn't -- didn't keep  
14 up with information that was provided, and that  
15 absolutely is not true. Because I have continually  
16 relied on the fact of certification based -- even in this  
17 report, that there was a condition, but that the system  
18 was certified.

19 Thank you.

20 CHAIRPERSON PÉREZ: And I want to just speak to  
21 that, because I think you and I work from the exact same  
22 set of assumptions and that you absolutely represented  
23 the system appropriately and thoughtfully to us and I'm  
24 sure to the County, that you had every reason to believe  
25 that this was a certified system. And quite frankly, it



1 still is. There's just a condition on the certification  
2 with respect to its usability in a primary, and that's  
3 what's of certain to me individually.

4 MS. HANSEN: Terry Hansen from Yuba County. I'd  
5 like to agree with what Joan just said. We've already  
6 made our first payment out of our county general funds on  
7 our contract amount with Sequoia. And I'm very  
8 concerned, as I mentioned to you earlier, that we're able  
9 to go forward and have some system. And as was conveyed  
10 to us when we went for our RFP, that was our part of RFP  
11 process early on so we could be in the process in a  
12 timely manner and that we would not have a system that  
13 was not certified. At the time that we did our RFP,  
14 Sequoia was the only certified system in the game. ES&S  
15 was not certified at that time. So we tried to comply  
16 with the time lines put before us at that time.

17 And I appreciate your frustration with this. My  
18 biggest concern is that we're able to have an election in  
19 June, and I know that's your biggest concern also.

20 CHAIRPERSON PÉREZ: Absolutely.

21 MS. HANSEN: And without some sort of funding  
22 mechanism, Yuba County will not be able to have equipment  
23 of any sort to go forward with our primary preparation.

24 MS. WALLIS: My name is Hiley Wallis with Tulare  
25 County. I just want to -- I'm sitting up here in

1 support. I agree.

2 CHAIRPERSON PÉREZ: Thank you, all three. What  
3 we're going to do is we're going to consider each of them  
4 hopefully in a way that's consistent or that you'll  
5 appreciate our attempt at being consistent. As I make  
6 some recommendations or as board members offer their  
7 motions, you're more than welcome to speak again on the  
8 specific proposals.

9 So here is my sense, and I'd like to see people's  
10 comfort level with it. To the extent that any of these  
11 three Counties are looking for funding for nonDRE-based  
12 expenditures, I think we should -- we should immediately  
13 approve that amount of their funding award letter.

14 To the extent that the moneys in their  
15 applications are for the AVC Edge II DRE system, I -- my  
16 preference would be that we issue a funding award letter  
17 to pay for that portion of their acquisition as well, but  
18 that that portion have on it the following condition:  
19 That they have a complete application to the Secretary of  
20 State and that they have completed their federal testing  
21 by January 31st, 2006. That requirement is informed by  
22 the letter that the Secretary of State issued on  
23 January 13th that required their application to be  
24 complete by January 20th and that the federal testing be  
25 completed by January 31st.

1 I'm consolidating both of those with the same  
2 deadline date of the 31st to afford the company the  
3 furthest out date reasonable consistent with the staff  
4 report. So it would be to approve the funding that the  
5 Counties are seeking, but with that condition with  
6 respect to the amount of money allocated to the DREs.

7 And I would suggest that we create a sunset date  
8 for the DRE portion, either of the February or March  
9 meeting. That would still allow for the Counties to come  
10 back to us if they completed that process after our  
11 January 31st deadline but -- and wanted to move forward  
12 at that time.

13 So if I could have folks' sense of this concept,  
14 and then we can take a motion.

15 Mr. Kaufman?

16 VICE CHAIRPERSON KAUFMAN: I generally agree with  
17 you, Mr. Chair. I -- I absolutely think that we need to  
18 move ahead right now on any funding that doesn't involve  
19 this particular software.

20 I did have -- I did think that there was one  
21 distinction with Yuba, and maybe we should just talk  
22 about this, one concern I had that I actually meant to  
23 ask somebody about, and that was the fact that Yuba  
24 doesn't have any system right now. If the certification  
25 doesn't take place, Yuba doesn't even have a backup

1 system because they have to do away with the punch card  
2 voting system.

3 CHAIRPERSON PÉREZ: And my understanding of the  
4 presentation of Ms. Hansen -- and please correct me where  
5 I'm inconsistent with your presentation -- is that Yuba's  
6 fallback position, should the DRE not be approved for use  
7 in the June primary, is that at the polling locations  
8 they would use a system that's consistent with their  
9 absentee ballot system that they're seeking funding for,  
10 which is an optical scan HPX140 APX206, yada, yada, yada,  
11 yada.

12 VICE CHAIRPERSON KAUFMAN: Right, but which they  
13 would have to then purchase.

14 CHAIRPERSON PÉREZ: Right, but their  
15 application --

16 VICE CHAIRPERSON KAUFMAN: Unless -- unless  
17 Sequoia has any provisions, you know, in the contract for  
18 making the County whole until such time as the system is  
19 certified.

20 CHAIRPERSON PÉREZ: Right. But what their --  
21 their approach was that they were going to acquire two of  
22 these units as a central count for absentee ballots and  
23 if the AVC Edge II DRE wasn't certified for use in the  
24 primary, that they were then going to optical scan voting  
25 in the polling locations, but do central count using the

1 same system that they were using for the absentees.

2 Am I correct, Ms. Hansen?

3 MS. HANSEN: Yes, that is correct.

4 CHAIRPERSON PÉREZ: That's -- that's Ms. Hansen's  
5 assertion as well.

6 VICE CHAIRPERSON KAUFMAN: Okay. Okay.

7 CHAIRPERSON PÉREZ: We actually do listen.

8 VICE CHAIRPERSON KAUFMAN: And then -- all right.

9 So, you know, that being the case, as long as we're  
10 not -- I would -- I would adopt your approach in  
11 bifurcating these and moving forward with a sunset date.  
12 I think that's a reasonable way to go at this point in  
13 time. It may not be completely in line with what we have  
14 done in the past, but, as you said, the goalposts keep  
15 shifting, and I think under the circumstances it's the  
16 best we can do. And, you know, I think it's to the  
17 Counties' benefits in many ways as well.

18 CHAIRPERSON PÉREZ: Right.

19 Mr. Bustamante?

20 BOARD MEMBER BUSTAMANTE: Yeah, I would -- I  
21 think what we have to do is probably have to wait until  
22 March, certainly, to be able to -- hold on, I'm sorry.

23 CHAIRPERSON PÉREZ: We lost Mr. Bustamante for a  
24 second.

25 How about you, Mr. Finney?

1           BOARD MEMBER FINNEY: Well, I just want to point  
2 out that I second Mr. Kaufman's concerns with respect to  
3 our past actions. There's two aspects that I want to  
4 address. One is that as the deadlines have gotten closer  
5 and closer, it's incumbent upon this Board to be less and  
6 less lax in its approach to trying to, you know, move  
7 forward with funding conditioned subsequent to approval  
8 of certification.

9           Also, once again, the Counties are running the  
10 risk if this Board does approve these systems and they  
11 don't work out of not being able to get funded from this  
12 proposition's pot of money going forward for systems that  
13 do work.

14           And so I just want to emphasize that the Board is  
15 not taking this decision lightly, and we do very much  
16 appreciate and respect the difficult circumstances in  
17 which you find yourselves.

18           I also am very supportive of moving forward with  
19 the systems that we know are completely certified and  
20 work out just fine. And I am also open to, once again,  
21 taking that leap of faith and proceeding with the funding  
22 of the DRE systems conditioned subsequent, meaning with  
23 some type of a sunset provision, and hopefully everything  
24 works out. But the Board has to be very, very careful on  
25 how it proceeds, more so as we approach these -- the

1 deadlines we're running into for certification purposes.

2           And finally I want to state that I think it would  
3 probably be fine with the Board, if my fellow Board  
4 members would approve, if we issued some type of a  
5 statement that could be used by the registrars. I'm  
6 certainly sympathetic to the political circumstance that  
7 some of you have found yourselves in. And I think that  
8 if we did a statement clarifying the circumstances, I  
9 think that would be helpful to get it off of you and put  
10 your public onto us. Not that I like that kind of thing.  
11 I've been there too many times in the past.

12           But I think it would be helpful if we did  
13 something like that. You have a condition -- approval  
14 conditioned subsequent, straight approval for the systems  
15 that do work, approvals conditioned subsequent for those  
16 systems that are still questionable, and then a letter  
17 explaining the circumstances so that it clarifies for the  
18 purposes of elected boards and members of the public in  
19 your respective Counties why we've made the decision  
20 we've made.

21           MS. BECHTEL: Could you put that out immediately?

22           BOARD MEMBER FINNEY: Yeah, we'd put that  
23 together immediately.

24           CHAIRPERSON PÉREZ: Yeah, we could do that.

25           If you'd identify yourself again. I know you're

1 with Tulare County.

2 MR. McDONALD: Vern McDonald, assistant  
3 auditor/controller.

4 You mentioned the January 31st deadline, putting  
5 it in there. I have a problem with that, is -- is that I  
6 think that's out of everybody's control in this room.  
7 It's with the federals. And if that makes everything go  
8 away and we have to reapply, that's going to put a big  
9 burden on us. I'd like to be able to say if you  
10 sunset -- if the process is going well at the State and  
11 at that time has a federal certification, we're okay.  
12 But just to say the January 31st date and if it drops,  
13 we're out of the loop --

14 BOARD MEMBER FINNEY: So you're suggesting a --

15 CHAIRPERSON PÉREZ: I understand what you're  
16 saying.

17 BOARD MEMBER FINNEY: You're talking about a  
18 condition rather a time certain.

19 MR. McDONALD: Right.

20 CHAIRPERSON PÉREZ: Okay. I understand where  
21 you're coming from. I'm not sure I'm a hundred-percent  
22 there yet, but let me think through how we structure this  
23 because I don't want to create an artificial barrier  
24 there.

25 BOARD MEMBER FINNEY: But we also have to be --



1 CHAIRPERSON PÉREZ: But also -- okay.

2 Mr. Bustamante, are you back with us?

3 BOARD MEMBER BUSTAMANTE: Yeah. Sorry about  
4 that.

5 CHAIRPERSON PÉREZ: No problem. We just moved on  
6 for a few seconds while --

7 BOARD MEMBER BUSTAMANTE: No, no, I was with you,  
8 I just had to hit mute because I've got an allergy and I  
9 didn't want you to have to listen to it.

10 CHAIRPERSON PÉREZ: Are you saying that Los  
11 Angeles doesn't agree with you?

12 BOARD MEMBER BUSTAMANTE: I would say that  
13 wholeheartedly.

14 Anyway, I like your approach, Mr. Chairman. I  
15 would suggest that we, for the second part of this, allow  
16 for our March meeting, because I don't think -- based on  
17 what I'm hearing from Sequoia, it doesn't sound like  
18 they're going to -- it sounds like they're going to be  
19 doing this stuff in February as opposed to the end of  
20 January deadline, so just in case so we don't find  
21 ourselves in the same situation again we do that part of  
22 it in March.

23 And I would also agree with Mr. Finney that I  
24 think a letter is appropriate, because having sat on this  
25 Board from its -- when it was formed, you know, we've

1 gone up and down and all around in terms of frustration  
2 on the part of vendors and have been with the Counties a  
3 hundred percent. And the initial -- our initial charge  
4 here was to find a way to help modernize voting equipment  
5 for Counties so that voters would have the ability to  
6 vote with confidence. And unfortunately we've had one  
7 problem after another. And so I think a letter  
8 explaining would be appropriate, would certainly be  
9 helpful, I'm sure, to the registrars.

10 CHAIRPERSON PÉREZ: Okay. Let's take a  
11 one-second pause here. I'm just trying to check the  
12 March meeting date.

13 BOARD MEMBER FINNEY: Why don't we have  
14 Mr. Kaufman take a crack at the motion.

15 CHAIRPERSON PÉREZ: Or --

16 VICE CHAIRPERSON KAUFMAN: Oh, great.

17 CHAIRPERSON PÉREZ: I'm more than willing to  
18 entertain a motion, if you'd rather, Mr. Kaufman.

19 VICE CHAIRPERSON KAUFMAN: Yeah, why don't you  
20 try and articulate it. And then I -- go ahead.

21 CHAIRPERSON PÉREZ: Before we do, Jana had  
22 something else to add.

23 MS. LEAN: I was just going to make a comment  
24 that we did approve for several Counties in the last few  
25 months to purchase the same system, but as you have

1 indicated, that the --

2 BOARD MEMBER FINNEY: There was a condition.

3 MS. LEAN: If there's addition -- there's  
4 different circumstances that you've indicated than we  
5 were in now than we were back in November and in June,  
6 because we did approve Del Norte in November and Glenn in  
7 June and Kings in November. And they were actually  
8 reimbursed for that AVC Edge equipment. And San Benito  
9 was also awarded, but they have not received funding yet,  
10 but they are all purchasing the exact same equipment that  
11 these three Counties are in today. I just want to make a  
12 note that they are correct. This system has been  
13 approved and we have issued funding for the DRE units.

14 CHAIRPERSON PÉREZ: And I would like to say along  
15 those lines that when we considered those, there was  
16 great debate and a good degree of consternation from  
17 amongst the Board whether it was appropriate for us to  
18 approve at that point. And at that point there was a  
19 commitment that these -- or an expression to us, anyway,  
20 that these items would be resolved prior to the end of  
21 last year. And that date kept getting moved further and  
22 further.

23 And while I am always willing to be reasonable  
24 with respect to extending deadlines, there comes a point  
25 in time where we hit a wall, and I've hit that wall.

1           So here's -- let me ask a couple of questions.  
2       With respect to Sutter County, there is an amount of  
3       money that's allocatable to the AVC and there's an amount  
4       money that's allocatable to the optical Optech; correct?

5           MS. LEAN:    Correct.

6           CHAIRPERSON PÉREZ:   Okay.   So the Chair would  
7       entertain a motion to approve the staff recommendation  
8       and issue a funding award letter in the amount of  
9       \$497,078.20 and that the availability of these moneys is  
10      to be bifurcated in the following way:   That the amount  
11      of money associated with the Optech system be immediately  
12      made available to the Counties and that the amount of  
13      money associated with the AVC Edge II DRE system  
14      components that have a condition on their use be awarded  
15      to the Counties but that no funds be transmitted to the  
16      Counties for reimbursement on this specific equipment set  
17      unless AVC or Sequoia Systems complies with the spirit of  
18      the letter of the Secretary of State issued January 13th,  
19      2006, and supplies the State with a completed package for  
20      evaluation by January 31st, 2006.

21           What I'm doing is removing the condition of the  
22      federal approval because of the complicated  
23      interrelations between the federal approval process and  
24      the state approval process and based on statements that  
25      have been made to me that you can go through elements of

1     them concurrently.  And I don't want to create a barrier  
2     that nobody in the state has any control of.

3             Should AVC -- should Sequoia fail to meet that  
4     deadline, then our approval for funding for the  
5     conditionally-approved equipment sunsets on March 10th,  
6     2006, and could be brought back to us at our March 15th,  
7     2006 meeting or any subsequent meeting at the request of  
8     the individual Counties.

9             That's my -- that's the motion I'd like to  
10     entertain.  Would somebody like to make that motion?

11             VICE CHAIRPERSON KAUFMAN:  I'll make the motion.  
12     I just want to be clear.  I think you kind of -- you  
13     started out with Sutter and then mentioned Counties  
14     plural.

15             CHAIRPERSON PÉREZ:  You're right.  I was trying  
16     to make a general motion, but, yes, that was specific to  
17     Sutter.  And I'd like to use this as a template for the  
18     next two Counties.  But you're absolutely right.

19             VICE CHAIRPERSON KAUFMAN:  I don't think we have  
20     to repeat that whole second part for the next two  
21     Counties.

22             So with respect to Sutter County and the amount  
23     stated, I will so move.

24             CHAIRPERSON PÉREZ:  Okay.  Mr. Kaufman moves.  Is  
25     there a second?

1 BOARD MEMBER BUSTAMANTE: I'll second it.

2 CHAIRPERSON PÉREZ: Mr. Bustamante seconds.

3 Would Joan Bechtel like to add anything to this  
4 before we take action?

5 A separate item, we will talk about the letter  
6 after we vote on all three of these.

7 MS. BECHTEL: I just want to make sure that I'm  
8 understanding this, that you would approve funding for  
9 everything other than the DRE voting machines.

10 CHAIRPERSON PÉREZ: Here's the intent of the  
11 motion. We approve funding for everything, but we don't  
12 release the money for the DRE machine itself until  
13 Sequoia submits an appropriate complete package for  
14 evaluation to the State.

15 BOARD MEMBER FINNEY: He has removed the  
16 condition relating to certification.

17 CHAIRPERSON PÉREZ: Right. Assuming they did  
18 that last night as they assert, then we're done. But if  
19 for some reason the package they assert that they  
20 submitted last night is not complete, they have an  
21 opportunity to complete that package. If that isn't  
22 done, our approval of this money sunsets March 10th, and  
23 then you'd have to come back to us March 15th or  
24 thereafter.

25 VICE CHAIRPERSON KAUFMAN: Based on -- I think

1 based on the way it was framed, they would have to  
2 complete that package if it is incomplete --

3 CHAIRPERSON PÉREZ: By January 31st.

4 VICE CHAIRPERSON KAUFMAN: -- in the next couple  
5 weeks.

6 CHAIRPERSON PÉREZ: Yeah.

7 MS. BECHTEL: Thank you.

8 BOARD MEMBER FINNEY: And then another point  
9 before we vote on this. I would like to say for the  
10 record that I see the spirit of the Board's motion that  
11 we are attempting to help the Counties not only move  
12 forward with a, you know, consistent reliable efficient  
13 election system, but that we are also trying to move  
14 forward with the tenor of the proposition that gave birth  
15 to this effort, and finally, that we are doing all that  
16 we can to help the Counties comply with HAVA.

17 But having said that, we are cognizant of the  
18 fact that there still remains one aspect of these DRE  
19 systems, just one aspect of it, in the primary itself  
20 that relates to the software with respect to -- Sequoia  
21 is correct about this -- just the decline to state voters  
22 and their reporting thereof that remains uncertified and  
23 that the Board's, you know, taking a risk here, yet  
24 again, to try to do all we can to help meet what the  
25 voters decided when they passed this proposition.

1 MS. BECHTEL: I guess the one thing that keeps  
2 going on in my mind, and maybe you can clarify for me, it  
3 was my understanding that Sequoia was certified except  
4 for, as you mentioned, the decline to state portion. I  
5 did not ever realize until just recently that that was  
6 going to require a submission of a complete new package.  
7 I thought it was a condition that could be lifted by  
8 Sequoia resolving that particular issue. And so that's  
9 what really changed enormously for me, was an  
10 understanding of that.

11 BOARD MEMBER FINNEY: Unfortunately, that's a  
12 different board than ours.

13 CHAIRPERSON PÉREZ: Right. And quite frankly,  
14 though, you've been working from a different set of  
15 assumptions than I have. Because as we approved this  
16 system in other Counties, we specifically talked about  
17 the fact that it was conditionally approved, that the  
18 system as it had been approved had deficiencies in its  
19 software with respect to primary elections. And while  
20 the underlying concern is with respect to decline to  
21 state voters, that's not how it technically read. The  
22 way it technically read was its usability in primary  
23 elections.

24 BOARD MEMBER FINNEY: Right. Usability. That  
25 specific information came to us from Sequoia.



1           CHAIRPERSON PÉREZ: And quite frankly, two  
2 dynamics are very important for us to realize. One is  
3 that in California the vast majority of legislative  
4 decisions, whether they're state or federal, are made in  
5 primary elections; and two, that we're at a point in time  
6 historically where the fastest growing subset of voters  
7 is decline to state voters. So we take seriously  
8 whatever requirements are placed in, either by regulation  
9 or by law, to make sure that the greatest level of voter  
10 confidence is there in a system in its entirety. And  
11 reporting is one of those key elements of voter  
12 confidence.

13           MS. BECHTEL: I clearly understand. It was just  
14 a misunderstanding that I had. And I have to honestly  
15 say that I feel that it was reinforced to me by the  
16 vendor. And I'm also going to publicly say that I am  
17 really disappointed that the vendor does not have someone  
18 here that can address the issues that we've raised. I  
19 mean, this has left myself and the other registrars that  
20 are here trying to move forward and trying to meet all  
21 the requirements, you know, standing here not really,  
22 really having a total answer, even though I know you're  
23 trying to address that. But I wish there was a  
24 requirement that they had to have someone here, the  
25 vendor did, who could answer your questions. Because

1 we're really leaving this meeting with you making a  
2 decision and me having to live by it without really have  
3 full answers.

4 I thank you for trying to address it.

5 CHAIRPERSON PÉREZ: Thank you.

6 Anybody else before we take a vote on this?

7 Okay. Then if you would -- if you would call the  
8 roll on the motion made by Mr. Kaufman, seconded by  
9 Mr. Finney.

10 BOARD MEMBER FINNEY: Mr. Bustamante.

11 CHAIRPERSON PÉREZ: Mr. Bustamante, I apologize.

12 MS. MONTGOMERY: John Pérez.

13 CHAIRPERSON PÉREZ: Aye.

14 MS. MONTGOMERY: Stephen Kaufman.

15 VICE CHAIRPERSON KAUFMAN: Aye.

16 MS. MONTGOMERY: Michael Bustamante.

17 BOARD MEMBER BUSTAMANTE: Aye.

18 MS. MONTGOMERY: Tal Finney.

19 BOARD MEMBER FINNEY: Aye.

20 CHAIRPERSON PÉREZ: Very good. We have approval.

21 VICE CHAIRPERSON KAUFMAN: Mr. Chair, hang on.

22 I'm trying to get my votes in here, but I'm already about  
23 20 minutes late for a meeting.

24 CHAIRPERSON PÉREZ: Okay. So the Chair would  
25 entertain a motion consistent with the motion for Sutter

1 County, and if you would just enter in the same type of  
2 language for us, and approve the staff recommendation in  
3 the amount of \$1,389,047.14 with all the same caveats  
4 that were in the Sutter County motion.

5 Mr. Kaufman, do you so move?

6 VICE CHAIRPERSON KAUFMAN: I will so move again.

7 CHAIRPERSON PÉREZ: Mr. Bustamante, do you so  
8 second?

9 BOARD MEMBER BUSTAMANTE: I so.

10 BOARD MEMBER FINNEY: Before we vote on it,  
11 Mr. Chair, one last quick statement on this. I also  
12 wanted to point out with respect to the previous motion  
13 that passed and this one and the next coming one, that,  
14 once again, even though we've approved the money, if in  
15 the end the system is not approved or certified for the  
16 primary, it cannot be used.

17 CHAIRPERSON PÉREZ: Correct.

18 BOARD MEMBER FINNEY: Right.

19 CHAIRPERSON PÉREZ: Until they come to us.

20 BOARD MEMBER FINNEY: Until they come back to us  
21 and it is certified.

22 MS. BECHTEL: Are you talking about the whole  
23 system or --

24 BOARD MEMBER FINNEY: No.

25 CHAIRPERSON PÉREZ: No, no, no, just the DRE.

1           BOARD MEMBER FINNEY: We're all just  
2     acknowledging the law separate from the decision that  
3     we're making here today. I want to make sure that the  
4     public feels that this Board -- has confidence in the  
5     decision that this Board has made, which in a way is a  
6     risk for us. We're expending significant public funds  
7     here, and I experience the same frustration with respect  
8     to the vendor. You know, we're all taking a risk here,  
9     really.

10          VICE CHAIRPERSON KAUFMAN: And I guess I'd just  
11     like to reiterate that any -- the action that we're  
12     taking and the conditions we're putting on it are not  
13     directed at the Counties themselves, but at the vendor  
14     and should not be taken any other way other than us  
15     desiring that this issue get resolved once and for all so  
16     the Counties can move forward.

17          BOARD MEMBER FINNEY: And that the action we're  
18     taking, once again, does not encourage the Counties to  
19     use these machines in violation of the law if they are  
20     not approved in time for the June primary.

21          CHAIRPERSON PÉREZ: Right. Very good.

22          BOARD MEMBER FINNEY: Even though we're expending  
23     the money.

24          CHAIRPERSON PÉREZ: On the question.

25          MS. MONTGOMERY: John Pérez.

1           CHAIRPERSON PÉREZ: Aye.

2           MS. MONTGOMERY: Stephen Kaufman.

3           VICE CHAIRPERSON KAUFMAN: Aye.

4           MS. MONTGOMERY: Michael Bustamante.

5           BOARD MEMBER BUSTAMANTE: Aye.

6           MS. MONTGOMERY: Tal Finney.

7           BOARD MEMBER FINNEY: Aye.

8           CHAIRPERSON PÉREZ: We have approval.

9           Next, Yuba County. Same motion.

10          VICE CHAIRPERSON KAUFMAN: I will make the same

11 motion.

12          CHAIRPERSON PÉREZ: In the amount of \$339,538

13 even.

14          VICE CHAIRPERSON KAUFMAN: Right. I will so

15 move.

16          BOARD MEMBER BUSTAMANTE: And I'll second again.

17          CHAIRPERSON PÉREZ: Anybody be heard?

18          Hearing none, if you'd call the roll.

19          MS. MONTGOMERY: John Pérez.

20          CHAIRPERSON PÉREZ: Aye.

21          MS. MONTGOMERY: Stephen Kaufman.

22          VICE CHAIRPERSON KAUFMAN: Aye.

23          MS. MONTGOMERY: Michael Bustamante.

24          BOARD MEMBER BUSTAMANTE: Aye.

25          MS. MONTGOMERY: Tal Finney.

1 BOARD MEMBER FINNEY: Aye.

2 CHAIRPERSON PÉREZ: Okay. Next item before us is  
3 other business.

4 Hearing none, we'll move on to the final item  
5 before us, which is adjournment. I will assume before we  
6 go to adjournment that you will empower the Chair to  
7 issue a letter to these three Counties consistent with  
8 the discussion that we had earlier today.

9 VICE CHAIRPERSON KAUFMAN: I will do that. And  
10 if you all want to further discuss this, I'm going to  
11 have to sign off.

12 CHAIRPERSON PÉREZ: As long as you defer to the  
13 Chair, we're fine.

14 BOARD MEMBER FINNEY: The Chair's going to write  
15 a letter consistent --

16 VICE CHAIRPERSON KAUFMAN: I defer to the Chair.

17 BOARD MEMBER FINNEY: We'll defer to the Chair on  
18 that.

19 VICE CHAIRPERSON KAUFMAN: I'm fine with that.

20 CHAIRPERSON PÉREZ: Okay. Is there a motion to  
21 adjourn?

22 BOARD MEMBER FINNEY: To be issued right away.

23 MS. BECHTEL: Can you just --

24 VICE CHAIRPERSON KAUFMAN: So move.

25 MS. BECHTEL: -- for my benefit make it

1 absolutely clear that when I said it was certified --

2 CHAIRPERSON PÉREZ: It was certified.

3 MS. BECHTEL: -- it was certified?

4 BOARD MEMBER FINNEY: Yes.

5 CHAIRPERSON PÉREZ: Okay. Moved -- it's been  
6 moved and seconded? Mr. Kaufman moved.

7 Mr. Bustamante, second --

8 BOARD MEMBER BUSTAMANTE: Yes.

9 CHAIRPERSON PÉREZ: -- to adjourn?

10 All in favor, signify by saying "aye."

11 MULTIPLE SPEAKERS: Aye.

12 CHAIRPERSON PÉREZ: We are adjourned.

13 (The meeting concluded at 12:37 p.m.)

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## 1 CERTIFICATE OF REPORTER

2 I, YVONNE K. FENNER, a Certified Shorthand  
3 Reporter of the State of California, and Registered  
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that  
6 the foregoing Secretary of State's Voting Modernization  
7 Board meeting was reported in shorthand by me, Yvonne K.  
8 Fenner, a Certified Shorthand Reporter of the State of  
9 California, and thereafter transcribed into typewriting.

10 I further certify that I am not of counsel or  
11 attorney for any of the parties to said meeting nor in  
12 any way interested in the outcome of said meeting.

13 IN WITNESS WHEREOF, I have hereunto set my hand  
14 this 24th day of January, 2006.

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21  
22 YVONNE K. FENNER, CSR, RPR  
23 Certified Shorthand Reporter  
24 License No. 10909  
25